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NEGOTIATING FORMALITIES

Everyday Rule in Berlin's Allotment Gardens

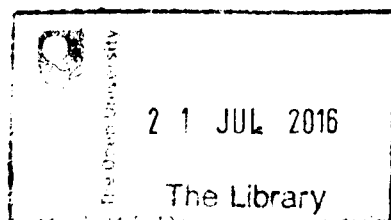
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ABSTRACT

Negotiating Formalities explores informal dwelling practices and their regulation in Berlin. In the literature on urban informality these themes are predominantly researched in Southern cities and have long been related to a lack of state capacity. As this assumption fails to account for the ways in which legal orders, administrative hierarchies or bureaucratic practices produce, enable or constrain informality, it impedes an analysis of the phenomenon in regulatory regimes that are presumed to rely on functioning bureaucracies. This thesis links literature on informality to an ethnographic understanding of states, to address this gap and think more precisely about the ways in which institutional and civil actors shape and contest order in everyday governance. This is what I call *negotiating formalities*.

This conception is based on an empirical study of the governance of informal dwelling practices in Berlin's allotment gardens. Although a federal law prohibits the inhabiting of these sites, gardeners take up residence within allotment compounds, particularly over the summer. My analysis of this case challenges three assumptions about urban governance. First, *Negotiating Formalities* argues that order is carefully arranged between institutional and civil actors, rather than implemented from the top down. Second, it contends that formality cannot only be understood by reference to institutional imperatives, but needs to be related to the processes through which these actors shape, interpret or ignore regulations by enacting them on site. Third, this thesis asserts that the boundaries of transgressions are not only defined through written statutes or the rules of the state, but depend on the everyday engagement of all concerned. In sum, these contentions suggest that formality is the contested product

of enduring negotiations. This conclusion not only challenges imaginaries of the state and informality but also bridges presumed divides between the functioning of states in the global North and South.

Keywords: formality, informality, governance, Berlin, housing, allotment gardens, institutional ethnography.

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GLOSSARY OF GERMAN TERMS

German terms	English translation
Bauaufsicht	Building inspection
Baustadtrat	Councillor for construction
Bau- und Wohnungsaufsicht	Department for Construction and Housing
Bezirksamt	District administration
Bezirksverband der Kleingärtner	District Association of Allotment Gardeners
Bundesgesetzbuch (BGB)	German Civil Code
Bundesgerichtshof (BGH)	German Federal Court
Bundesklingartengesetz (BKleinG)	Federal Allotment Law
Bundesrepublik Deutschland (BRD)	Federal Republic of Germany
Kleingartenentwicklungsplan (KEP)	Allotment Garden Development Plan
Kleingarten Sachbearbeiter	Allotment garden administrators
Kleingarten und Kleinpachtordnung (KGO) ...	Allotment and Small-lease Regulation
Landesverband Berlin der Gartenfreunde (LBdG)	City Association of Allotment Gardeners
Lauben	Allotment huts
Melderechtsrahmengesetz (MRRG)	Federal Registration Law
Melderegister	Register of residents
SachenRechtsbereinigungsgesetz(SachenRBerG)	Property Law Validating Statute
Schwarzwohnen	'Black' – or illegal/unlawful – dwelling
Senat	Senate
Senatsverwaltung für Stadtentwicklung und Umwelt (SenStadt)	Senate Department for Urban Development and the Environment
Senatsverwaltung für Finanzen	Senate Department of Finance

Sommerwohnen	Summer dwelling
Stadtrat	Municipal councillor
Verband für Kleingärtner, Siedler und Kleintier- züchter (VKSK)	Association of Gardeners, Settlers and Small Livestock Breeders
Verwaltungsvorschriften	Administrative regulations
Volkseigentum	Public property
Vorstandsvorsitzender.....	Chairmen of an allotment colony
Vorstand der Kleingartenvereine	Executive board of allotment associations
Wohnlaubenentgeld	Dwelling fee
Wohnungsamt	Housing department

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1. INTRODUCTION: THE ENTANGLEMENTS OF FORMALITY AND INFORMALITY

Taking the train from Schönefeld airport, a visitor of Berlin rides through a vast area of urban allotments. Still in the periphery, the train follows the East-West divide that long defined the city, if not much of the world. Only straight ahead, at a distance, a passenger can spot the tip of the Berlin Television Tower — the symbol of former East Berlin that today marks the city centre. Seemingly endless green plots of about 300 to 500 square metres lie ahead on both sides of the track. They are cluttered with small and colourful allotment huts [*Lauben*]. I have been asked, if these sites are the ‘slums’ of Berlin; if these huts are informally inhabited. From the distance, their spatial and social order is difficult to grasp.

This thesis delves into the rules that govern these sites. More particularly, it explores the construction and transgression of order in the everyday governance of allotment gardens. As an urban geographer, I examine these processes with a focus on practices of informal dwelling together with their regulation and the socio-spatial relations in and through which these practices are embedded.

One way of approaching this task is by framing it through the notion of informality. Since the seventies, researchers have used this concept to describe the unauthorised construction and inhabitation of urban livelihood, particularly in Africa, Asia and Latin America. These themes remain, as Tonkiss writes, “a major plotline in the story of contemporary urbanization” (2012: 55). Today, critical scholarship employs the notion of informality to consider the ambiguities of state regulation. In this sense, the concept is useful to begin with a description

of the scene above. It highlights the incoherencies of governance and the uncertainties of housing in these sites.

Another way of approaching the task of this thesis is by exploring the enactment of rules and the boundaries of regulatory enforcement. Dwelling in Berlin's allotment gardens breaches the rules of the law, but it is similarly marked by other forms of regulation. Instead of spontaneous makeshift housing, the construction of allotment huts is embedded in the traditions of city life. Sheds transgress building codes, but are organised strictly on clearly fenced plots. Buildings are erected without permits, but finely constructed and systematically serviced with water and electricity. Residents exceed use rights, but comply elsewhere with registration commitments. A closer look at the housing situation in the gardens not only points out the institutional ambiguities on which informality depends; it also provides insights into the ways in which transgressions are accommodated in the production of urban order.

My focus in this thesis is on the ways in which people come to terms with each other in the making of order, rather than on social or political conflict, although I also discuss instances of evictions. But in contradiction to cases of informality in which harassment marks people's relations to street level bureaucracies, allotment dwelling constitutes an object of inquiry, through which questions of governance can be explored through processes of negotiation in which informality tends to be tolerated and sustained. By and large, allotment gardens can be characterised as spaces for the lower middle class, although to a lesser but possibly growing extent, they provide refuge for the poor — for people scraping by on unemployment benefits, migrant labourers or pensioners with limited means. While a generation of young middle class urbanites have started to garden in Berlin's allotments, most gardeners are of an older generation that has fostered strong social networks between allotment holders who have gardened and (at times) lived plot by plot for generations. Berlin's allotments — even if some may be inhabited — are commonly seen as orderly and tradition bound. But they are governed, as I will argue, more by the ways in which constellations of actors negotiate rules than by a rigid enforcement of federal laws.

Negotiating Formalities relates these two approaches and argues that this matters, because it provides an innovative account of urban development in Berlin that proves helpful to rethink some of the assumptions that have long been engrained in urban research. “The idea of the informal”, as Tonkiss writes, “reverses the colonial tendencies of the urban imagination, travelling across the old geographies of urban power, from the global South to global North, from margin to centre” (2012: 55). The exploration of informality as a global phenomenon marks a more recent interest. *Negotiating Formalities* joins this task, not only to understand Berlin through innovative frames, but also to use this context as a place from which to scrutinize a concept that has been framed elsewhere. Thereby this thesis aims to challenge the geographies that are underlying much production of knowledge on cities. In researching informal practices in Berlin, my focus is on the notion of formality in order to improve an understanding of the ways in which transgressions are embedded in the making of order. Therefore a central concern of this thesis is to explore the contestations, disruptions and disjunctions in the production of formality.

Globalizing informality and the state

I situate this task at the intersection of three literatures. The first — the previously mentioned burgeoning debate on urban informality — has long been guided by dichotomies. Research has diagnosed informality as a result of state failure and described informal housing, economies or social relations as a realm outside of institutional reach (Hart 1973; de Soto 1989). More recently, substantial literatures (Miraftab 2006, 2011; Varley 2013; Porter 2011; Tonkiss 2012; McFarlane 2012) have argued that informality can no longer be studied as “a shadow world excluded from capitalist markets and public welfare systems” (Hehl 2012: 11). These incisive accounts point out that informality does not simply depend on state-regulation, but is constituted through multiple socio-spatial and politico-economic processes. Ananya Roy’s (2005) seminal article ‘Urban informality: Towards an epistemology of planning’, the first in a series of pivotal publications that explore the working logics of informality (2009a, 2009b,

2009c, 2011b), exemplifies this view. Contrary to writings on informality that take the notion to describe a separate sphere, Roy holds informality to be an “idiom of urbanization (...) a system of norms that governs the process of urban transformations itself” (2005: 148). In Roy’s work, informal urban development is conceptualized with a view to understand state-regulation. It is conceived of as a way in which states mediate their relations with civil society by continuously rearranging the boundaries of legitimacy. This thesis starts from this literature and addresses an important gap. Although research on informality is predominantly focused on Southern cities it has recently turned to the poverty-stricken countries of the so-called global North (Ward et al. 2004; Tanasescu et al. 2010; Devlin 2011; Fairbanks 2011). But these studies have primarily tackled poverty related issues. To date, informal housing is hardly recognised as existing in Germany and rarely researched in relation to processes of governance (but for a recent engagement with histories of squatting in the city, see Vasudevan 2015). Moreover, the work relating informality to processes of governance (Huchzermayer 2011) has rarely aimed to use this context as a site for theory building from which to reflect on the concepts of informality or formality themselves.

This gap provides an entry point into a second debate that this thesis builds on, which is frequently framed through post-colonial theory and addresses the challenge of overcoming a tradition of ‘othering’ cities (Robinson 2006) in the so-called global South (Connell 2007; McFarlane and Robinson 2012; Chakrabarty 2009; Comaroff & Comaroff 2012). This tradition continues to ‘haunt’ urban studies (Hentschel 2015: 80), enlisting cities of the South into an alleged trajectory of development that presumes one desirable global future for all cities, epitomized by the economic hubs of the North (e.g. New York and London). In line with such thinking, informality has long been read as a Southern problem. If increasing contributions to an understanding of informality have developed new conceptual approaches to the phenomenon (Roy 2009a, b; McFarlane 2012), the largest part these contributions remains rooted in Southern states. One way to reverse this tendency is to (re)-theorise cities in the South. Another one is to ‘theorise back’, or to ‘post-colonize’ the North (Hentschel 2015) by transmitting knowledge from the South northwards. *Negotiating Formalities* contributes to

the latter. It brings a theory from 'off the map' (Robinson 2002) to Berlin, a place commonly understood through mainstream conceptions of Western urban thinking. Thereby it relocates a Southern concept to widen its geographical imagination and challenge knowledge asymmetries. But this methodological move not only intends to render spaces commensurable. Following McFarlane, it aims to realise the potential of indirect learning (2006, 2011). To 'theorise back' builds on the assumption that theory can and should travel outside of the context in which it was built, to be shaped, challenged and reformulated across space. In sum, I suggest that such a comparative reflection promises not only a refinement of theory, but also an irritation with the seemingly comfortable certainties about urban development trajectories.

Any attempt to globalize informality makes it necessary to fashion an analytical conception of the notion that translates into 'high-capacity' states. This necessity leads me to a third body of literature around states, governance and institutional practices. As previously mentioned, informality thinking has frequently been conceived of as an effect of the institutional failures of the supposedly dis-functioning traditional states of the global South. This framing not only implies a more general disregard of the workings of states, but also a normative conception of the constitution of states, which implies that states should work through encompassing bureaucratic neutrality and functional rationality. Therefore translating the concept into the context of this study also requires rethinking conceptions of the state inherent in the notion of informality. To do that, this thesis builds on state literature that shares an imagination of the state as produced through formal and informal practices and accounts for the messiness, hybridity and disjunctures of institutional structures (Tilly 1999; Marston 2004; Painter 2006; Mountz 2013). These contributions highlight the crucial place of informality in the constitution of all states and allow me to understand the dwelling practices in focus in relation to the processes of governance in which they are embedded.

Research sites, approach and questions

In the context of these debates, this project sets out to explore the everyday politics of

informality and regulation through a multi-sited case study that is focused on the ways in which Berliners inhabit allotment gardens. By way of introduction it is useful to provide some background of this case. Berlin's allotment gardens (see Figure 1) go back to a period of industrialisation and rapid expansion of the city at the end of the nineteenth century. In face of the unhealthy living conditions of the time, the allotments were founded to toughen up young city-dwellers through gardening in fresh air. Today, 958 compounds provide approximately half a million members with mini-scale garden plots and mini-scale allotment huts on 3,018 hectare of inner-city space (SenStadt 2012). They are frequently referred to as colonies — a term which I adopt and explain in more depth in Chapter 3. Here, Berliners garden, according to strict rules, on privately used plots that are commonly leased from the city for an undetermined period of time. However, although a law, the Federal Allotment Law (*Bundeskleingartengesetz*; hereafter: *BKleinG*), legally prohibits permanent dwelling on these sites, many gardeners take up residence within allotment huts, particularly over the summer. These dwelling practices provide a useful example through which to consider the production of urban order and the negotiability therein.



Figure 1. Aerial view of allotment compound. Source: picture-alliance / dpa

To research these practices, I focused on multiple allotment compounds in four districts across the city. I explored these sites through interviews with bureaucrats and allotment-gardeners that were conducted between July and November 2013 as well as between April and July 2014. Ethnographic explorations of the research-sites as well as textual sources, including statutory texts; the documentation of legal cases; and newspaper reports, complement this material and, in combination with the interview data, allowed me to analyse the enactment and transgression of regulation.

My approach to understanding these processes starts from a shift in perspective. As noted above, my interest in this case is in the ways in which order is produced and contested in everyday practices. The title of the thesis conveys the key frame through which I study this theme, namely the notion of *formalities*. To be clear, I do not forefront this concept to replace the notion of informality or presuppose an orderly enactment of rules that follows the text of the law. Rather, I shift perspective to turn the constitution of formality itself into an ethnographic question. This move allows me to understand the dwelling practices under study through the production of order, i.e. within the realm of formality. As the second part of this thesis' title conveys, my interest in this production is focused on the negotiations that accompany the implementation of rules. I approach the enactment of order in a dialogical rather than top down way. Together, the two terms imply that formality needs to be continuously fabricated, as it constitutes the contested product of a set of regulatory processes that allow for negotiation.

It follows from this argument that in this thesis formality is not defined through the realm of a state that is characterized by bureaucratic rationality, encompassing legitimacy and the regulations or statutory frames of a distant legislator. This also implies that I do not take formality to be delineated solely by state actors who define the boundaries between acceptable and illegitimate practices or their material effects. At the same time, I suggest that formality cannot be opposed to a notion of informality that defines the realm of the poor and their practices or habitat.

Instead, this thesis understands formality to be a conceptual construction with powerful effects on the governance of society and space. In daily life, this concept works a descriptor for a kind of order that is produced through varying institutional regulations and is thus infused with a set of claims. Formality implies claims to the legitimacy, regularity or efficacy of order due to a supposed alliance with institutional frames, but crucially, as this thesis shows, these implications are contested, as formality can be staged or appropriated and is thus dependent on its constitution in different situations and through a range of actor constellations.

This is, however, not to say, that formality is an empty signifier, or purely theoretical construct. Rather, to define formality as a conceptual construction highlights that the notion is designed in the enactment of rules. It underlines the significance of such enactment in struggles, for instance, for the legitimacy of people's livelihoods.

Following this approach stops me from presuming that actors in the field (and researchers for that matter) know what formality is, by whom it gets constructed and to what ends these constructions may work. Because formality works through translation, mediation and manoeuvre, it is central to this project to understand how it is differentially articulated in the everyday through the messiness, hybridity and disjuncture of institutional rules. A focus on formality thus leads to an analysis that is able to develop an account of the messiness, power relations and everyday struggles in the construction of order. Given the vast amount of energy citizens and states put into this construction, it matters as a concept to be researched, because it leads the inquiry to processes of negotiation that may help people to shape its ends, but may also foster the production of social and spatial inequalities.

In order to study these negotiations the main research question of this thesis asks: **how do the responsible institutional actors as well as allotment holders enact and transgress everyday rules in producing order in Berlin's allotment gardens?** These everyday politics of regulation can also be described as negotiations between constraints and spaces of agency. To approach formality as negotiated by multiple actors in everyday practices opens up the imagination to room for manoeuvre that may remain unacknowledged in an account

of top-down rule. The first sub-question of this thesis recognises these spaces of agency in asking: **how do allotment holders as well as responsible institutional actors use spaces of engagement to enact and transgress regulations?** I do not intend to romanticise this room for manoeuvre through a one-sided perspective. The spaces of agency addressed in this question have to be understood in relation to a number of constraints that limit the negotiability of rules. These include statutory frames, the norms and rationalities that place limits on tolerance as well as the global forces of economic and political change as they come to be felt in the locales of the allotment gardens and restrain the possibilities of participating in shaping order in situations on the ground. I address these boundaries of negotiations as they are enacted in everyday practices through the second sub-question of this thesis: **how do allotment holders as well as the responsible institutional actors delineate spaces of negotiation and define the limits of transgressions?**

To operationalise these questions I organize my analysis around three dimensions. First, I am concerned with the actor constellations that govern allotment dwelling. Rather than seeing formality as solely produced in a confined sphere of the state this notion helps me to unravel the networks and power relations through which rules are negotiated in and beyond state institutions. The frameworks of order on which practices of governance rely, constitute the second dimension of my approach. Rather than merely referring to laws, I introduce this heuristic to capture all rules that shape order in the present case, including policies, contracts and unwritten norms. I keep this notion intentionally open, as my research has taught me to expect a wider set of influences that impact upon the making of order. The third dimension of *Negotiating Formalities* concerns the boundaries of negotiability and helps me to describe how actors define the limits of appropriate conduct.

Together, these dimensions seek to cover the key aspects in the negotiation of formalities. They allow me to consider the room for everyday agency in which rules are implemented and produced; they enable me to explore the relations and norms on which negotiations depend; and, they make it possible to scrutinize the ways in which transgressions become subject to

regulatory efforts when boundaries of negotiability have been crossed. As these dimensions also structure the empirical chapters of this thesis, I detail their contributions in the following overview of the thesis.

Thesis overview

This thesis starts with a theoretical and methodological framing in Chapters 2 and 3, followed by a contextualization of the case in Chapter 4, three empirical chapters and a short conclusion. Each empirical chapter explores one of the dimensions introduced above: Chapter 5 considers constellations of governance, Chapter 6 reflects upon frameworks of order, and Chapter 7 examines the boundaries of negotiability. Let me introduce these chapters in more detail.

Chapters 2 and 3 establish an approach to understanding and researching the negotiation of order in Berlin's allotment gardens. In introducing the notion of *negotiating formalities*, Chapter 2 contributes a conceptual framework that supports an analysis of the making of formality from a discussion of two bodies of work. It starts with conceptions of informality to argue that these fail to disentangle the ways in which governance tends to produce, enable or constrain what is commonly considered to be informality. To deepen an understanding of regulatory regimes, it links these narratives to a more relational view of the state which foregrounds a more practice-centred understanding of the making of urban order. This combination not only intends to account for a wider constellation of actors and a more open-ended approach to the rules that guide regulation, but also makes it necessary to understand the boundaries of formality through the enactment of rules in practice. In short, it requires further reflection of the three dimensions introduced above around which I organize my thinking in the empirical chapters that follow. This widening of the frame has methodological consequences regarding the actors in focus, the objects of research as well as the scale of analysis. I discuss these consequences in Chapter 3. Therein I explain that I base my methodology on the conceptions of institutional ethnography (Smith 2005), which can

be broadly characterised by a commitment to focus the research on everyday practices but understand these practices with regard to the ‘ruling relations’ (*ibid.*) on which they depend. I argue that this tension is usefully understood through a case study approach that builds on a mix of methods. Chapter 3 concludes by introducing my fieldwork process with an account of my data analysis.

The fourth chapter sets the scene. It provides a historically informed report of the context in which I study the governance of allotment gardens. To understanding this context I provide an overview of a century of allotment governance that was characterised by two wars and decades in which Berlin was divided in two political systems. These developments leave their traces today. On the one hand, they lead me to discuss the temporalities through which order is produced when past regimes of governance impact upon the contemporary making of regulation. On the other hand, this exploration helps me to account for the shifting geographic relations in which allotments were situated throughout these decades.

All empirical chapters speak to the question of how formality is constructed in enacting and transgressing regulations. Chapter 5, *Constellations of Governing*, describes this production, considering the governance of permanent or temporary dwelling from the perspective of different actors involved in processes of regulation. More specifically, my approach accounts for a constellation of regulating actors that exceeds the realm of Berlin’s bureaucracies and includes the gardeners themselves. Exploring these viewpoints makes it possible to consider the diverse remits and aims that influence allotment governance. From these perspectives the production of socio-spatial order appears as a cooperative effort that is shaped by all concerned. Moreover, these foci highlight the limitations of enforcement, the resulting pragmatics and compromises through which governance takes place, as well as the ways in which gardeners and bureaucrats open their room for manoeuvre to enable and constrain regulatory implementation. As I show, actors in governing constellations have little choice but to negotiate a joint, although possibly contested, arrangement around the modalities and outcomes of regulatory enforcement. In sum, a more relational view of regulation, which

foregrounds the practices of a broader constellation of governing actors leads me to an understanding of formality as shifting and negotiated. In this sense, formality is best described through the making of consent in these constellations, rather than in relation to the rules of state institutions.

Chapter 6 continues the discussion of negotiability in the production of order by focusing on the frameworks of order on which practices of governance rely. This focus helps me to unravel how the actor constellations I previously described use texts, plans, laws and the like in regulatory practices. In line with the previous chapter *Frameworks of Order* builds on empirical data around the regulation of dwelling, but it accounts for a different set of regulatory mechanisms. On the one hand, it explores the regulation of people's official whereabouts by reference to a public registry. On the other hand, it traces governing efforts concerned with the size and infrastructure of the allotment hut. My focus is on the processes that shape rules as they are put into practice. I delineate two modalities of enactment: *Manoeuvring Multiplicity* describes how regulations are enforced through a flexible composition of different frameworks of order. Hereby I show how people shape order through combining a variety of rules as they perform them in everyday practices. In *Manoeuvring Meaning* I demonstrate how actors adapt regulations through fitting them to the ground. This includes processes of translating the law, whereby the rules of the books are adapted to fit a situation at hand; as well as processes of categorisation, whereby people appeal to different norms inherent in the law. *Manoeuvring Meaning* also considers the effects of these processes. It indicates how the manoeuvring of regulatory frames institutionalises new rules and leads to the rededication of entire allotment colonies into recreational areas, as official land-use plans are changed in response to the everyday negotiation of rules. These processes point to the malleability of frameworks of order, which allow people to set priorities in enacting rules, blur the boundaries of regulations or widen their spaces of discretion. Thereby all governing actors produce a range of accepted solutions that are seen as tolerable. These processes, I maintain, produce formality.

If Chapters 5 and 6 widen an understanding of the actors involved in governance and the modalities of regulatory practices, Chapter 7 points to the boundaries of negotiability. It explores the ways in which people differentiate what is accepted and what crosses the line. Thus, if my earlier focus was on the making of consent, here I am concerned with moments of controversy and disruption. Empirically, I describe the making of these boundaries through a twofold process. On the one hand, I explore situations in which people do not play by the rules and disrupt the negotiated arrangement around legitimate rooms of transgression, leading to evictions or a harsher enactment of the law. On the other hand, I consider strategies employed to avoid the rigid enforcement of rules by aiming to stretch a realm of toleration. I explore these processes through three sets of mechanisms that work to define the boundaries of negotiability and give the chapter its structure. First, I describe how the aesthetics and materiality of the allotment hut become a technology of regulation as well as a means through which to negotiate the acceptance of informal dwelling. Second, I engage with some of the rules of coexistence in the gardens and trace how they help to foster the tolerance of transgressions by representing the allotment colonies as sites of neat order and appropriate conduct. I highlight how gardeners keep transgressions internal, steer public imaginaries, censor discourses and arrange public events to protect the status quo. Finally, I use two cases of below-standard housing to discuss how social norms are used to draw the boundaries of toleration. These mechanisms work to protect the unstated consent of all governing actors to the deviation from the stated statutes of the law. The boundaries of formality are, in other words, constituted in the production of order, rather than inscribed into the rules of the books, which are only enforced, when gardeners cross the boundaries of the consent that has been negotiated.

To conclude, I revisit the key themes of this thesis and trace them back to the debates from which I started. On the one hand, Chapter 8 shows how *Negotiating Formalities* reflects on questions of informality. On the other hand, it considers debates on spatial governance in and beyond Berlin, and uses the insights of the previous chapters to challenge some of the paradigms through which urban development is commonly discussed therein. Finally, my

discussion returns to the epistemological starting point of this thesis and reflects on the promises and challenges of translating concepts from ‘elsewhere’ to Berlin.

In sum, my approach differs from most critical accounts of formality and informality in three main ways. First, in considering a wider constellation of governing actors, *Negotiating Formalities* seeks to overcome a view of formality and informality as defined in a top down way, in which solely state actors draw boundaries between legitimate and illegitimate forms of conduct. Rather, it shows that the room for manoeuvring rules lies, in part, beyond the realm of state institutions and is used and, at times, co-produced by civil and institutional actors. Second, *Negotiating Formalities* argues that although the stated rules of the law describe the ends of regulation from the viewpoint of a distant legislator, they hardly constitute formality. The processes I have outlined show how the imaginations that are inherent in statutory frames differ crucially from the orders that are established and accepted on site. Rather than to presuppose the effects of these frames through their projected conceptions, I suggest focusing on their operation in practice, as it is through their application that order is built. In this sense, the enactment of rules through the processes I describe hardly lies beyond formality, but at its very core. Third, it follows that rather than differentiating formality and informality through the imaginations of the law it is helpful for an understanding of formality to consider the boundaries of tolerance through the ways in which they are established in and through everyday negotiations.

In sum, this thesis argues that the notion of formality cannot be understood merely by reference to institutional orders or written statutes. Rather, it must be seen as the product of a process that is perpetually constructed in and through negotiation.

2. THEORISING INFORMALITY AND THE EVERYDAY STATE

This chapter develops a conceptual framework that supports an analysis of the production and transgression of order in everyday practices. It builds this frame from a discussion of the benefits and shortcomings of two bodies of work, namely, on the one hand, contemporary studies on informality (Simone 2001; Lindell 2008; Roy 2009a, b, d; Yiftachel 2009a, b; McFarlane & Waibel 2012) and, on the other hand, literatures that explore the working mechanisms of states (Blomley 1988; Tilly 1999; Painter 2006; Jeffrey 2012). These bodies of work share mutual insights into the architecture and operation of regulatory regimes as well as a common perspective on these themes. Both engage with the boundaries of the state and their negotiability. Nevertheless, they tackle these themes from two distinct directions. While the literature on informality helpfully contributes to an understanding of the ways in which actors transgress regulations or misuse them in governing practices, the state literature I refer to conveys an understanding of the architecture of institutions and their working mechanisms on a day to day basis, including, at times, their everyday abnormalities. This chapter combines insights from both areas of study with the following aims: First, a review of their shared and divergent conceptualisations raises numerous questions that I trace throughout this thesis. Second, these literatures provide the material for a framework that supports the analysis for the empirical chapters that follow. Third, I suggest how this frame helps to provide an account that will add to the current state of research. This introduction starts by setting out both strands of literature as well as the approach that I derive thereof.

These days informality is very much on the agenda. Alongside a wide range of political

voices, academics loudly proclaim the growing importance of informality across the globe (Comaroff & Comaroff 2012; Neuwirth 2012). “Since the 1970s slum growth *everywhere* has outpaced urbanization *per se*” (Davis 2006: 17, *my emphasis*); or, “[t]he informalization of cities is a key feature of the current moment of *global* capitalism” (Roy 2007: 624, *my emphasis*). The recognition that informality constitutes a global phenomenon is recent. At least until the millennium, early research into informality predominantly aligned the concept less with the (presumably strong) legal frameworks and ‘functioning’ bureaucracies of ‘developed’ states and more with those allegedly ‘traditional’ ones of Latin America, Africa or Asia (ILO 1972; Hart 1973). Despite controversial voices (e.g. Portes 1983), major parts of this early literature framed the concept as a problem of regulatory capacity or administrative oversight.

Controversies have prevailed. ‘Legalist’ accounts, such as Hernando de Soto’s (1989) influential pursuit to formalise slums through land-titling, conceptualise informality as a sphere that is autonomous of capitalist property markets — organized solely by social norms and social contracts — and presume that legal recognition will enable informal settlers to overcome poverty by entering the formal economy (for a detailed critique see von Benda-Beckmann 2003; Bromley 2004). Conversely, a burgeoning body of critical work (Miraftab 2006; Varley 2013; Bunnell & Harris 2012; McFarlane & Vasudevan 2013) argues that informality hardly constitutes a ‘shadow world’ (Hehl 2012: 11) that is primarily located in the global South and points to the importance of studying informality for an understanding of cities in Europe and America (Duneier 2001; Devlin 2011a, b; Fairbanks 2011, 2012; Mukhija & Loukaitou-Sideris 2014; Hentschel 2015). These scholars have also distanced themselves from binary conceptions that perceive strict divisions between formal and informal domains, sectors or sites in the city. It would be misleading to suggest that the early work on informality or the more contemporary legalist literature fails to identify any relevant connections between informal and formal spheres, but today’s more critical perspectives frequently invoke this imaginary. In positioning themselves against this dichotomy, the latter body of research has shown that social spheres are embedded in a complex network of different relations that may be formal or informal to different extents (Hernández & Kellett 2010; Altrock 2012).

In sum, this literature has established a considerable agreement that informality is highly embedded in power relations and struggles within the state, be it through ordinary practices of administration, regulatory voids or strategic politics of exclusion (Roy & AlSayyad 2005; Watson 2009 a, b; McFarlane 2012).

Major problems continue to linger. To begin with, the literature covers numerous objects of inquiry that range from concerns about informal economies (Neuwirth 2012), land use (Marx 2009), housing (Lombard 2014), and governance (Lindell 2008) and each depend on different processes at distinct scales of analysis having varying actors in focus. The range of empirical questions that are covered by studies on informality — including urban aesthetics (Ghertner 2010), state dealings (Bear 2011), everyday conviviality (Watson 2009) or large scale planning (Roy 2009d) — conveys different readings of the notion and complicates the development of a circumscribed conceptual understanding of the term. Moreover, this work stems from multiple disciplines such as development studies, economics, urban studies or architecture and a fruitful communication between their different approaches is not common practice.

Despite this diverse disciplinary interest, paradoxically the topic is plagued by thematic confinement. Studies on urban informality rarely link to adjacent fields of research that deal with potentially related concerns, such as criminology, state-theory and socio-legal studies. In addition, despite much critical engagement, less has been written about the more fundamental question of how to approximate a conceptual understanding of informality that would allow speaking to empirical concerns in a wider range of contexts. Instead, the contemporary literature operates predominantly with an understanding of informality that builds on empirical explorations of how informality is used and experienced locally and in a particular field, and hardly constitutes, what Robert Merton would term a ‘theory of the middle range’, i.e. “a set of assumptions from which empirical generalizations have themselves been derived” (2012 [1949]: 533). This epistemological concern is a relevant one that will be discussed in more detail in Chapter 3.

Here, I want to highlight, in line with more recent post-colonial work, that a conceptual development of informality requires the ‘comparative reflection’ of diverse cases (Robinson 2011; McFarlane 2011; McFarlane & Robinson 2012). The challenge, I suggest, lies neither in an expansion of urban analysis into an all-encompassing theory, nor in advocating for “localized complexity and unpatterned diversity” (Peck 2015: 161). Rather, I seek an approach that allows for the capturing of “all cities within the same field of analysis” (Robinson 2006: 171), because and in spite of their differences, so that these differences can contribute further to the development of the concept of informality. This has been aptly framed by Roy as “theories [that] have to be produced in place (and it matters where they are produced), ... they can then be appropriated, borrowed, and remapped. In this sense, the sort of theory being urged is simultaneously located and dislocated” (2009a: 820).

My concern is not merely with the epistemological value of the term. At the heart of its conceptual weakness lies a troubled understanding of states: a weak theorization of their structures, implicit misconceptions of their rationalities and little attention to their everyday operations. Furthermore, the contemporary literature lacks a conception of how informality is to be delineated from or aligned with other concepts that are critical for understanding the relation of informality to the state, such as legitimacy, sovereignty, or legal regimes. Together, these shortcomings complicate an analysis of the case study this thesis is concerned with through the framework of informality. This leads me to the second body of work that this thesis engages with and my proposal to link an understanding of informality to theories of the state. State ethnographers and informality scholars have rarely engaged with each other’s work, although the structures, power relations as well as practices of state-actors are central to concerns both these bodies of literature share. Carefully put, conceptions of states undergird most questions related to informality, if only through the absence or, say, shadowy existence of states.

To relate understandings of informality to explorations into the nature of states has two key potentials. First, the conjuncture of the two bodies of work helps me to question and

refine an account of regulatory transgressions. On the one hand, literature on the state that describes its enactment through micro-level processes rather than structural concerns can reveal the ways in which the practices under study are embedded in the institutional, social or legal relations that constitute states. In this thesis, I draw particularly on accounts of the state that are in some sense relational. Although they stem from multiple fields of research and their objects of inquiry range from everyday state-citizen encounters (Gupta 1995; Auyero 2010) to large-scale social processes (Scott 1998; Tilly 1999), this work shares an imagination of the state as produced in interaction. Take, for instance, Joe Painter's (2006) understanding of the state as a bundle of 'spatialized social practices', which, as he argues elsewhere, "are to a greater or lesser extent institutionalized (in a 'state apparatus') and which involve claims to authority which are general in social scope and which secure at least partial compliance through either consent, or coercion, or both" (1995: 34). Rather than conceiving of the state as a coherent and sovereign entity that is solely guided by laws and formal institutions, his reading draws attention to the micro-practices that make up states as they are enacted in constellations of governance that blur institutional boundaries. The idea of disorder, hybridity and temporality that this definition entails is indicative of the constitution of states. And it points to the crucial place of informality in this constitution. Consider the multiple openings through which states are continuously enacted: the conflicting orders of legitimacy, room for discretion in bureaucratic work, conflicts in institutional hierarchies or the mundane transgressions of civil actors. These are necessary elements of state-practices.

In line with these thoughts, recent explorations within the realm of informality research into the social infrastructure of everyday governance further an understanding of collaborative governance structures (Abdoul 2002; Lindell 2008). It must be noted that this realm of informality studies constitutes a mere side stage to the broader body of literature; the work of AbdouMalik Simone, for instance, bears the potential to offer insights into the ways in which social and spatial order takes shape through the everyday strategies of citizens (cf. Bear 2011). Those accounts of informality are not only key to overcome the misalignment of formality with the state and informality with a civil realm, they also depart from a positiv-

ist account of law and the state, or, as Herbert put it, they unveil the “processual, messy and ever-contingent reality of everyday state action” (2000: 555).

Second, my juxtaposition of these two bodies of work constitutes an attempt to ‘post-colonize’ informality (Varley 2013) and overcome some of the teleological notions of development that are inscribed in contemporary urban research (Robinson 2006; Comeroff & Comeroff 2012). In fact, the trajectory of informality research corresponds to an interesting paradox. As previously mentioned, informality thinking is rooted in a conception of states that juxtaposes “the rational modern west with the cultural rest” (Steinmetz 1999: 22), in which informality is aligned with the supposedly dis-functioning traditional states of the South. In such imaginaries the presumably modern rational institutions of ‘developed’ states serve as the yardstick to define informality as the ungovernable realm outside of institutional reach. In other words, definitions of informality as the other of states, build on a particular image of the state that is seen to be located in ‘the Northwestern quadrant of the world’ (O’Donnell 2001: 7), despite the states in which informality research emerged appearing to lack all these definitional characteristics. These (Western) ideals of the state as a rational, coherent project continue to haunt informality-thinking. In spite of vocal criticism of binaries and dualisms, much contemporary work perpetually reproduces spatial and normative assumptions about the instrumental nature of the state which obscures the hybridity, malleability, and processual nature of all states. Such imaginaries need reconsideration. As Le Galès and Tommaso suggest

“[r]ather than opposing rationally governed western middle-sized cities to unruly ungovernable large metropolis, it’s time to reconceptualize governance and to develop comparative empirical projects beyond the case of the robust governance of European cities and the supposedly ungovernable chaotic megapolis” (2013: 2).

Rethinking informality in conjunction with literature that focuses on state practices may help to advance this project.

Crucially, such a relational understanding of states as negotiated by multiple actors in and beyond the state challenges the place of informality: If states are themselves understood

as performed in practice, improvised and never complete, what meaning does informality convey in a description of regulatory transgression? This question shifts focus: Instead of presupposing the existence of formality and deriving the concept of informality from that, it turns the operation of formality into an ethnographic question. As Böröcz notes, “[w]ere sociology a truly unbiased, comparative-historical science then we ought to explain that it is not so much the existence of informality but the emergence of, and adherence to formal rules and organizations in the sea of informality that is social life” (2000: 352). Formality, then, becomes the starting point of analysis and the object of inquiry.

My project probes the notion of *negotiating formalities*¹ to tie different regulatory mechanisms to their implementation and contestation in everyday practices. This conception allows me to question the coherence of formality. Rather than taking regulatory enforcement for granted, the notion of *negotiating formalities* suggests that formality needs to be continuously fabricated. In this sense, the concept of formality describes the contested product of a set of regulatory processes. As these processes depend on a multiplicity of different orders (including laws, government programs, contracts and the like), numerous actors (including state-agencies, civil associations or individuals), different power relations (including social ties, networks, political allegiances) who produce a plethora of legitimate orders, I employ the term in its plural form.

Although the decision to frame my research through foregrounding formality certainly constitutes a move away from the notion of informality, my conception still captures the key concerns of this literature: the blurring of statutory boundaries, the room for manoeuvre in the production of order, the everyday engagement through which these processes emerge and the stabilities and instabilities through which they are marked. Formality, one might ar-

1. Sally Roever has used this notion in her doctoral thesis to indicate that informal economies in Peru are partly regulated and negotiate to achieve formality (2005, University of California, Berkeley). This chapter does not provide a thorough discussion of her work, since my use of this term differs substantially.

gue, remains a difficult term, because its use ultimately reifies a conception of both terms — formality and informality — as opposing or binary principles. However, it is crucial to remember that although the terms nominally stand for opposing ideas, formality and informality are, above all, conceptions that need to undergo detailed empirical scrutiny and when researched in practice, their definitional characteristics may merge. However, to put formality at the centre of the investigation allows me to circumvent the dichotomy that is implicit in the term and that defines informality through its lack of formality. The (informal) processes under scrutiny in this thesis are then not described as the deviant other, or the negative counterpart of an orderly space, but as part and parcel of the making of formalities.

The remainder of this chapter will address numerous questions that this heuristic opens up. To do that, the following sections introduce some of the various guises through which I discuss informality, problematise a number of ideas embedded therein, and link these to relevant approaches in literatures on states. My conception of formality employs some of the key vectors of analysis of the latter body of work, namely a focus on structures of governance, an account of the rules that shape regulations as well as of the everyday agency in producing and delimiting order. These themes anticipate the outlines of an analytical frame that I elaborate on in the three subsequent sections and that guide the empirical chapters. The first section, *Constellations of Governing*, reviews literature on the architecture or, rather, the institutional composition of states, and thereby explores the ‘structural’ constitution of formality. I abandon the idea of a strong state with a coherent body and illustrate an approach to institutional orders through a wider frame of reference that includes brokers of power beyond the state. The second section, *Frameworks of Order*, examines those social, institutionalised or legal rules within which practices of regulation are embedded. I employ the notion of *frameworks of order* to address this assemblage of stated and unstated imperatives as well as the mechanisms through which these frames are adapted in processes of enactment. The final section, *Negotiability and its Boundaries*, tackles the theme of discretion in regulatory spaces as well as the ways in which such room for manoeuvre is circumscribed in everyday practices. This focus contributes an account of the opportunities for contestation and agency that are inherent in the construction of order.

Constellations of Governing

Imaginations of the state

In the past decades, the nature of the state and its boundaries has been subject to close scrutiny in a burgeoning body of empirical work that has promoted anthropological inquiry into everyday practices of governance (Mitchell 1991; Mbembe 1992; Gupta 1995; Painter 2006). This body of work frequently makes reference to a foundational piece in post-structuralist thinking: Philip Abrams' pivotal paper on 'the difficulty of studying the state' (1988 [1977]). Against post-Marxist accounts of state structures and presumptions of state-autonomy embedded therein, his work cautions against treating the state as a unit of investigation (*ibid.*). Conceptions of the state as an object of imagined coherence have, as Abrams notes, important effects in both scholarly debate and political praxis. His central provocation addresses theorists. "The real official secret", Abrams writes, is "the secret of the non-existence of the state" (1988: 77), which he sees reified through the theoretical approaches of his contemporaries who create this collective illusion (*ibid.*). Similarly for Mitchell, research on the state is prone to confirm its 'analytical tidiness' and distort the discrepancies of much institutional practice (1991: 76). Building on Abrams, he speaks of the 'state effect' to label the idea that the state pre-exists, is aloof from people, and provides a frame that embraces their lives (1991: 89).

Ferguson and Gupta add a spatial dimension to this idea. "States", they write, "produce spatial and scalar hierarchies" (2002: 995), which they describe through the twin conception of 'vertical encompassment' (2002). This metaphor, writes Ferguson (2006: 92), condenses multiple ideas to draw a single picture. On the one hand, 'verticality' captures the scalar architecture of this image, in which the state sits 'up there' — somewhere above its citizens — with civil society as a kind of buffer in the middle ground and is conceptualised through its "supremacy in hierarchy of power" and superiority in "interest, knowledge and moral

purpose” (2006: 111). ‘Encompassment’, on the other hand, depicts the state’s imagined spatial qualities: the ability to embrace its entities (the family, the community, the region) to which it is superior (Ferguson & Gupta 2002: 982). In practice, the production of this image has powerful implications. It allows the state’s practitioners to wield authority, ensure their legitimacy and secure their supremacy over other brokers of power (Ferguson & Gupta 2002).

Crucially then, the state is made socially effective as a site of ideological and symbolic production. It works, as Abrams puts it, as an “exercise in legitimation ... [which] conceals real history and relations of subjection behind an a-historical mask of legitimative illusion” (*ibid.*: 76–77). For Mitchell, the task of state theory is thus to historicise the differentiation between the imagined coherence of the state and its ‘material reality’ (1991: 77). It is only in this sense, (i.e. as an imagination that yields powerful effects) that the state possesses agency. Theorists, should thus be wary of rejecting the idea of the state, but should take it as an object of investigation that requires close scrutiny.

These accounts are key to understanding how imaginaries of formality and informality are produced. As states are made effective as abstract objects with agency, informality becomes “marked as distinct” (Bear 2011: 47). For instance, ‘vertical encompassment’ has shaped common understandings of informality: This image appears to suggest that informality must be of local scope (spatially subordinate to the formal), outside of the state (beyond institutional remits), subordinate in the hierarchies of power (inferior to a single sovereign state), and lacking legitimacy (the deviant other of formality). Precisely these assumptions have long shaped informality research. They are, in other words, the foundational imagination of the formal-informal binary. To overcome this concept it is useful to distinguish the state’s imagined coherence (as a powerful concept) and the fragmented practices that constitute the state. Only by holding these dimensions analytically apart does it become possible to study the constitution of formality and informality.

More recent accounts of informality have scrutinized the role of the state and developed understandings of informality that account for the involvement of states themselves in the

production of informality.² My starting-point to explore these ideas is a body of informality research that frames the state/informality complex as a relationship of dominance or suppression (by the state) and resistance (of informal dwellers, vendors etc.) (Davis 2006; Yiftachel 2009 a, b; Brillembourg & Klumpner 2010). From this perspective the formal-informal distinction is seen to work as a strategic tool and powerful mechanism of control. For instance, in the work of Ananya Roy, the enactment of regulations is hardly neutral (2005, 2009c, 2009d; Roy & AlSayyad 2005). According to Roy, states use regulations as tools through which to carve out room for manoeuvre and control the possibilities in which the 'informal' may or may not unfold (2005). Drawing on Agamben's notion of a 'state of exception', Roy argues that governments constantly stretch their power in order to serve their long-term projects as well as their temporal needs (*ibid.*: 149). In doing so, as she notes, institutions employ 'extra-legal' contracts that allow them to flexibly breach, ignore or alter regulatory frames. Accordingly, the 'formal' planning of the state results, as she argues, from the constant illegitimate resetting of its supposedly fixed statutes (*ibid.*). Roy's narrative is one of strong states with authoritarian power. It is primarily based on the Indian state, characterised by Roy through an ineffective institutional order. However, as she argues, the ambiguity through which the state is ruled, hardly points to its weakness. Instead she calls it an 'activist state' to indicate that the apparent failures of governance themselves constitute a strategy (2011c: 262). In her view, such social and political agency manages informality. It is, as she notes, a city-building habitus, "a system of norms that governs the process of urban transformations itself" (2005: 148).

The crucial contribution of this approach to understandings of informality is to consider the state through a framing of informality. For its critical consideration of the state as an actor in the production and use of informality, Roy's analysis constitutes a significant step. However, her approach provides a limited conceptualisation of the state's everyday operation. On the one hand, her account remains valid only within a particular institutional context. As Roy discusses the state as a highhanded authority and focuses on its institutions, it is challenging

2. Parts of this section have been published in Hilbrandt (2016)

to transfer her account to the context of my research. The following chapters show that austerity measures or entrepreneurial politics have increased urban inequalities, yet for all the spaces of discretion that these chapters describe, the bureaucracies under scrutiny arguably act in orderly and accountable ways. On the other hand, Roy's 'instrumental' view of the state maintains the idea of informality as the other of the state, which is used (illegitimately) by the state for its own strategic good. If the state is here conceptualised as informal in its agency, it still appears to operate as an institution with a coherent aim and core.

In fact, much informality research is prone to making sweeping statements about the predatory nature of states (Devlin 2011b; Yiftachel 2009a). Such accounts stem from powerful findings. States may cause what Tonkiss describes as the "‘stratification’ of informalities" (2012: 59), a differentiation in the sanctioning of transgressions, where the faultlines of condoning follow economic power rather than a rigid inspection of the law. I sympathise with Tonkiss' critical approach. But I maintain that in the absence of a profound consideration of how states are enacted in practice, it is easy to miss the ways in which these stratifications are produced. An analysis, in which imaginaries of coherence are taken to be the working mechanisms of the state as a 'weighty actor' (Skocpol 1985: 3) obscures the ability of institutional practices to construct and mobilize such imaginations in order to pursue political strategies. If the prevalent confusion of these ideas constitutes a pivotal problem of informality research, a move into the realm of state theory helps me to undergird these themes with a more developed idea of the state's coherence and agency.

A relational account of formalities

Multiple strands of state-research have explicitly turned towards a 'relational' theorization of states (Tilly 1999), in which the state is seen 'from within' as a field of institutional relations and mundane everyday practice in which politics plays out. These accounts stem from multiple disciplines including, for instance, state anthropology (Nuget 1997, 2007; Rodgers 2006; Auyero et al. 2014), sociology (Tilly 1985, 1990), and geography (Painter 1995; Mountz

2003, 2013). These literatures hold in common that they conceive of state institutions as the continuously changing effects of cultural processes that are embedded in society (Steinmetz 1999). For the present task, this understanding is helpful to scrutinise the boundaries of the state and outline my vantage point of investigation. As Mitchell argues, “the institutional mechanisms of a modern political order are never confined within the limits of what is called the state. This is ... to argue that the boundary of the state ... never marks a real exterior” (1991: 90).

Mitchell’s account points beyond the idea of devolution. First, this approach posits that the state hardly acts as the only sovereign actor. Rather, it highlights the idea that the state is composed of mundane, localised social relations and constituted through the people who practice the state in the everyday (Corbridge et al. 2005; Jeffrey 2012). Rather than seeing the state as above the everyday, Sallie Marston, for instance, sets out an idea of the state as the “contested product of formal and informal practices of multiply situated subjects (Marston 2004: 5). Moreover, such understandings point to the sovereignty of actors who operate beyond the state (Tilly 1985; Cooper 1998; Latham 2000; Davis 2010). These accounts helpfully show that state formalisation emanates not solely from state-institutions, but also from other brokers of power, and make it necessary to account for their agency in processes of regulation for an understanding of informality. Second, Mitchell’s account implies that the practices of state actors and the institutions operating within the state apparatuses build complex structures of unclear status. In other words, the theoretical line that is frequently drawn to divide two realms that are imagined as inside and outside of the state, separates, in fact, a network of practices of governance that extends across these domains. Whilst governing, in this view, takes place in constellations of multiple local actors of differing power relations, states are seen as “incoherent assemblages of sites, processes, and institutions” (Nugent 2008: 198).

Similarly ‘relational’ approaches underpin some of the recent research on informality. At the forefront, numerous contemporary pieces on urban Africa offer a useful conceptualisation

of the ways in which the state is structured and enacted in everyday practices (Abdoul 2002; Lindell 2008; Fourchard 2011). These accounts employ the notion of informality as a lens through which to grasp the multiple collaborations that constitute urban life and underpin urban governance. Notably, this perspective echoes the state literature that I previously discussed. For instance, AbdouMaliq Simone approaches informality through the notion of social collaboration (2008b). His account refrains from strong differentiations between institutional and non-institutional actors. Rather in his perspective, urban development emerges through a collaborative effort, in which practices of collective or individual actors such as religious authorities or community groups are entangled in different social and institutional relations that extend across what might be considered as formal and informal ‘realms’. For Simone, informality does not refer to something running in parallel or clearly against the state, but to the complex making of governance through heterogeneous institutional arrangements. People navigate, as Simone notes, the dynamic and often unstable terrain of limitations and opportunities that structural mechanisms produce as they intersect with micro-level processes (2008b: 29). The resulting ‘ephemeral social formations’ (2001: 102) not only supplement state institutions, but also constitute platforms for “new trajectories of urban mobility” (2004: 62). Simone terms these ‘social architectures’ that often remain unseen in urban debates the ‘governing composites of associational life’: the “gestured, contingent, and shorthand annotation instead of the memorial; exchanged glances and murmurs rather than documents” (2008b: 30).

Similar conceptions of ‘associational’ governing are key in the work of Francis Cleaver (2002). In researching processes of governance, Cleaver departs from a differentiation between, on the one hand, bureaucratic institutions that are characterised through hierarchies, statutes and legal relations, and, on the other hand, those that are defined through social embeddedness, culture and personal relations. In other words, her account rejects divides between formal and informal or traditional and modern institutions. Instead, Cleaver’s concept of ‘bricolage’ accounts for the “complexity, diversity and ad-hoc nature of institutional formation” (2002: 11). In this perspective, the city is not just the object of planning, politics

and law, but emerges in efforts of collaboration. Hereby states are constituted through social ties, deals and contingent possibilities that people forge as they search for opportunities, manage resources and deliver basic services.

Simone, Cleaver and others having a similar approach offer insights into the ways in which social and spatial order is constructed through the everyday strategies of citizens. As such, these authors not only point to ways of overcoming an equation of formality and the state; they also make it possible to depart from a positivist account of the law and the state.

In sum, both literatures from informality and state scholars consider institutions as built through cooperative relations that are forged in practices and embedded in social interaction. Yet, while the former turn their attention to these encounters with an interest in the ambiguities and instabilities of these relations, the latter view them as the normal and more or less stable workings of states. *Negotiating Formalities* attempts to bring these views together. An appropriate framework for analysing formality should acknowledge that states are not ‘pre-social’ formations, and hence formality is not a pre-given attribute of states. To argue instead that states are constituted through everyday practices that extend across more or less institutional realms is not to deny that much regulation works through state institutions. Rather, I am suggesting that these institutions constantly need to be enacted and that this process points to effort and raises questions about the actors involved in the making of states, the structure of states and the boundaries that define its limits. These questions will be addressed most explicitly in Chapter 5.

Frameworks of Order

If the state is, as I argue, reproduced in and through daily practices, these practices depend on and, in turn, are productive of a set of institutionalized relations that script processes of governing. Such *frameworks of order* — replicable texts, discourses, plans, laws and the like

— are key to the making of formality. But how do these frames shape everyday practices? And how, in turn, do the everyday practices of governing agents influence these frames? If one forefronts the precision of the written law, the regular patterns of social order and the multiple court cases that fix regulatory procedures, the latter question seems counter-intuitive. However, this section is concerned with the openness, normativity and contingency of frameworks of order — themes that are key in informality studies too.

For instance, the theme of high-handed misuse of normative legal frames is central in the work of Oren Yiftachel (2009a, b). Yiftachel grounds his analysis in a study of the exclusionary practices of the Israeli state, which pursues, as he notes, a violent political agenda to push Bedouin Arabs into a timeless legal insecurity. As Yiftachel notes, the state not only ‘whitens’, i.e. legitimises desired spaces or ‘darkens’, i.e. illegalises unwanted spaces, but also creates spaces of uncertainty — best conceptualised as ‘grey spaces’ (2009a, b). Yiftachel writes that these zones that the state pushes, between the “‘lightness’ of legality/approval/safety and the ‘darkness’ of eviction/destruction/death” (2009a: 250), allow administrations to retain flexibility and control in a continuum of legality and illegality. Yiftachel’s helpful analysis points to the state’s informal employment of its authoritarian power. However, Yiftachel leaves his reader with a limited understanding of how ‘grey’ precisely relates to corruption, or say illegality. This ambiguity points to a further challenge of informality research, namely a thorough conception of the informality-illegality nexus. As Datta notes in a key book on the theme,

“illegality is often subsumed within the practices of informality both in the examination of everyday lives of squatters and in the practices of the state. Informality (and not illegality) therefore is often seen as the defining condition of everyday life within squatter settlements through which state-citizen relationships are negotiated. In these arguments, ‘informal’ settlements and ‘illegal’ settlements become one and the same thing” (2012: 7).

Datta raises a crucial point. Perhaps, the informality-legality nexus frequently remains unspecified due to the legacy of the former. If one ascribes — in line with ‘developmentalist’ (for an explanation of the term, see Robinson 2002: 533) views — informality to the outside of a presumably dysfunctional state, its relation to illegality is not immediately obvious. In-

stead of a thorough examination, this relation is thus defined through a number of vague assumptions. For instance, institutional order is frequently paired with fixity, whereas informality is seen as the realm of negotiability (Bear 2011; Fairbanks 2011). This brings me back to the underlying cause of the problems associated with conceptualising informality, which is an absence of a thorough conception of states. In returning to a relational account of the state and more specifically a corresponding view of its legal orders, the next section reframes questions of legality within conceptions of informality.

A socio-legal account of formality

My account of law is grounded in what Valverde calls the “broad sense of the word” to include “sub-legal regulations and inspection and enforcement practices” (2012: 12). These themes find their context in critical legal geography (Blomley 1988, 2014; Blomley et al. 2001; Butler 2009; Delaney 2010) as well as in law and society studies (Cooper 1998; Coombe 1994; Valverde 2012). Rather than taking the law as text, or taking law and society “as two separate and distinct realities or entities which are then juxtaposed in order to investigate the extent to which they correspond or do not correspond” — as Santos (1987: 280) describes the ‘conventional paradigm’, this area of work is focused more on the ‘law as action’ (Blomley 1998). It tackles, in other words, the workings of the law in quotidian practices, for instance in its habitual and routine structuring force (Ewick & Silbey 1998), in the everyday enactment of regulation (Goodwin & Painter 1996), or in the negotiation of public control (Mitchell 2003). This focus corresponds to the state-approach I have outlined, as it examines the law not as an institution, or as Mitchell puts it, “not as an actual structure, but as the powerful, meta-physical effect of practices that make such structures appear to exist” (1991: 94). This is not, as Blomley notes, to say that the law is an illusion. As much as these imaginaries are effective, as he writes, “they should be regarded as real, and as productive of power relations” (2014: 142). My understanding of the legal concepts underpinning these ideas is particularly inspired by socio-legal scholar Boaventura de Sousa Santos. Santos’ seminal article, ‘law, a map

of misreading' (1987), conceptualises three critical dimensions of legal orders through which people negotiate the law to exercise control, namely interlegality, projection and peripherality.

First, interlegality is a key concept of legal pluralism, which, in turn, assumes the coexistence of various legal conventions on the same territory. As Melissaris adds, it implies "being attentive both to the plurality of norms but also to the ways, in which they are organized in and around practices" (2004: 58). Legal pluralism understands laws, following Braverman et al., "as plural products of particular local cultural formations" (2014: 16). Similarly, Santos suggests that 'socio-legal life' is made up of multiple legal realms that work side-by-side in overlapping scales and with diverting normative frames (1987: 288). In illustrating that national law is simultaneously linked to multiple other legal frames and normative orders, interlegality introduces a social and spatial complexity to the study of juridical regulation that undermines the close conception of legal formalism (Butler 2009: 5), i.e. the binary determinism of legality and illegality. Rather, following Santos, "we live in a time of porous legality of legal porosity, multiple networks of legal orders forcing us to constant transition and trespassing" (1995: 475). As multiple legal orders intersect, actors need to negotiate one set of rules (e.g. customary law) with another (e.g. state law) (*ibid.*). But before turning to these negotiations, it is helpful to consider the relation of different legal frames to social practices.

Second, Santos explores this complex relation through the notion of projection (*ibid.*). Projections describe the ways in which the law abstracts images of reality, or, as Santos explains, the processes through which a legal regime delimits its jurisdiction and structures the legal spaces therein (*ibid.*: 291). Various projections with different degrees of abstraction can be created from the same worldly reality to produce multiple legal objects so that the relation between the law and what actually takes place in legally delineated spaces may differ crucially. Following Blomley's (2014) more recent account, this operation could be further defined through the notion of 'bracketing'. In attempting to "stabilize and fix a boundary within which interactions take place more or less independently of their surrounding context", bracketing distinguishes laws from other arenas of social life. It creates, in other words, the

legal fiction of one closed system by cutting out a field of social life — the law's ambit — that seeks certainty and avoids ambiguity (2014: 135). Court cases illustrate both these operations. They require carving off, i.e. bracketing a realm of social life by defining this realm through the remits of a certain law, as well as the interpretation, i.e. projection of the law in order to bridge the gap between its imaginaries and the 'bracketed' realities on the ground.

This and similar socio-legal work helpfully shows the 'deeply consequential' ordering work that is already embedded in statutory frames (Blomley 2014: 138). As Santos notes, "(n)ormativity is the heavy reality of the law. But law is also imagination, representation and description of reality" (Santos 1987: 281). If, to follow both authors, the correspondence of law and society entails powerful prescriptions, brackets and projections are not a metaphysical given that is "inherent in the order of things" (Blomley 2014: 138), but a conditional arrangement that is more or less successful, i.e. learned, practised and open to change. As the empirical chapters of this thesis show, the relation between frameworks of order and their enactment is based on pragmatism, fierce internal conflict and contradictory interpretations by different authorities. In enacting legal rules or, in my broader approach, frameworks of order, people manoeuvre through indeterminacy, forge processes of meaning making and exercise political authority.

Mariana Valverde (2011: 279) offers a useful understanding of the rationalities in and through which these processes are embedded. She points to the ways in which urban practitioners enact regulations through techniques of governing that rely on inherent contradictions. In contrast to much research on contemporary planning that tends to see spatial regulation as a tool of governance with, "a built in essence or a built in politics" (*ibid.*), Valverde suggests that these tools — in her case zoning ordinances — are hardly tied to particular 'rationalities of governance' (*ibid.*). Instead, she points out that "legal interventions ... succeeded for highly contingent reasons, and remain to this day extremely malleable (at least potentially) rather than being hard-wired to socially exclusion agendas" (2011: 280). In this sense, 'seeing like a city' — her alternative lens to understanding urban regulatory regimes — illustrates that the

pragmatics of governance build on multiple perceptions of an issue and thereby produce winners and losers in uncertain and shifting ways (*ibid.*). Instead of understanding governance as a fixed and political project, ‘seeing like a city’ contributes the idea that rationalities of regulations are not merely instrumental, but enacted through the internal discrepancies of the state’s own frameworks.

Third, for Santos (1987), projections produce a legal centre and a legal periphery. As projections are abstracted from a description of the centre, here, social life is easily framed by legal orders and entails limited spaces to negotiate the implementation of laws. In the periphery projections are more distorted. As norms, orders and approaches that are inherent in the law are primarily conceptualised from the vantage point of the centre, they may not fit local necessities and frequently need to be adapted (*ibid.*: 292). This larger degree of indeterminacy requires further interpretation and adaptation in the enactment of laws. The notion of projection thus illustrates the uneven spatiality of the law. It challenges what Butler calls ‘an unbalanced instrumentalism’, a view that uncritically assumes the objectivity of “an imperialist, positivist law [built onto] a passive space conceived as a flat surface or empty container” (2009: 315). If formality is then, to return to my previous proposition, the product of regulatory processes, and legal tools in their wider sense drive some of the mechanisms that undergird these processes, then formality is hardly a fixed or coherent project. Instead, these claims expose that the production of formality depends on highly subjective, shifting and local understandings and is underpinned by a spatial and scalar hierarchy of regulatory attention.

These three concepts raise a point that is crucial for this study. They illustrate that not only informality, but formality itself is the effect of a normative (rather than a neutral) procedure. As Benda-Beckmann et al. argue, legal structures often do not *de*-scribe but *pre*-scribe images of “the possible, the probable and the desired” (2009: 19). In this sense, phenomena that are embedded in a permanent and public process of construction and contestation over the signification of an issue are fixed with disparate legal effects. As such fixing helps the state

to legitimise its own story, a dominant narrative of legality that designates, as Marston writes, “how the world should work” (2004: 14) creates unequal geographies of power, enabling some and disempowering others. As previously noted, the idea of fixity should be examined with caution. In line with Santo’s work on laws, a focus on the negotiation of formalities points to the contingency of frameworks of order. As the empirical chapters of this thesis show, governing actors manoeuvre these contingencies and produce different legitimate orders across the geography of city. Hence, as previously noted, my proposition is to speak of *multiple* formalities. Rather than presupposing a fixed and unrivalled status — contrasted to informality as its negotiable other — a closer look at the enactment of laws suggests that formality itself is inherently plural. Referring back to Yiftachel’s (2009a) proposition to see informalization as the ‘greying’ of spaces, I then suggest that it is necessary to imagine this map as already ‘greyed’ through the intersecting and overlapping layers of ‘whiteness’, i.e. formalities. The workings of these frameworks of order will be most explicitly addressed in Chapter 6.

Boundaries of Negotiability

My insistence on reading formality through its negotiation through practices is motivated in part by the possibility of using this approach to examine the nexus of regulation and everyday agency in producing or contesting order. A focus on the negotiation of formalities points to the bending of rules, the ways in which people trick and toy with regulations and alter the boundaries of regulatory frames. In this sense, the notion of negotiability goes beyond big scale accounts of resistance as opposition against the state and thereby extends my theoretical frame with a notion of small-scale agency. But it also raises the question of how people place limits on tolerance in processes of negotiation.

Spaces of engagement

In the literature on informality spaces of engagement in governance have been examined from a particular angle. It has become commonplace to link the notion of informality to practices of subversion, resistance or subaltern agency (Brillembourg & Klumpner 2005; Neuwirth 2012; Tonkiss 2012: 58). In this view, informal practices are considered, as put by Hehl, as “a counter strategy against dominant mores of production” (2012: 17). The work of Asef Bayat (1997, 2000, 2009) on the street politics of Teheran’s poor provides an illustrative example. His analytical key — the notion of ‘quiet encroachment’ — thinks beyond the dynamics of suppression and protest. Focused on the continuous engagement of marginalised urban groups, ‘quiet encroachment’ finds everyday politics in the unanticipated moments of negotiation in everyday life. These struggles, Bayat suggests, broaden the domains of what he oddly calls the ‘informal people’ (1997) by improving their positions in the city, by allowing them to gain autonomy from regulatory restraints and by advancing their access to social goods and economic opportunities. Rather than framing these politics as grassroots-activism directed against the state, Bayat seeks to circumvent the rigid divisions between ‘active’ and ‘passive,’ ‘individual’ and ‘collective,’ or ‘civil’ and ‘political’ opposition (2009: 26). Those dichotomies, as he argues, have restrained scholarly perceptions and limited the opportunity to grasp those practices that stay under the radar but may precede important social transformations (*ibid.*). Bayat’s pivotal account offers a refined description of small-scale agency as the “silent, protracted and pervasive advancement of ordinary people” (2000: 24) — spaces of engagement which are crucial for understanding processes of negotiation.

In line with Bayat’s work, more recent architectural accounts have stressed the creative qualities of informal settlers (Brillembourg & Klumpner 2005; Cruz 2008, 2009; Hernandez & Kellett 2010). For instance, Koolhaas et al.’s well-rehearsed thesis that Lagos presents ‘the forefront of globalizing modernity’ (2001: 652; see also Haak 2006) praises the city’s ingenuity, resourcefulness and entrepreneurial flexibility. In this way, the authors promote a romantic version of ‘othering’ the informal, which has been fiercely criticised (Nuttall & Mbembe 2005; Gandy 2005, 2006; Angotti 2006). As this version inscribes a positive connotation in

its conceptualisation of informality that stresses the actors' agency and flexibility, it falls prey to what Roy calls the "mystification of the brutal commodification of the informal sector" (2003: 227). But Koolhaas et al.'s heroic slum-narratives are not only blind towards the politico-economic inequalities and complex urban relations within which informal settlements are situated, they also perpetuate misleading theorisations (cf. Hilbrandt & Richter 2015: 174).

Not unlike the approach of Bayat, informality is, in Koolhaas et al.'s account, confined to the realm of civil society. It denotes, in this context, the absence of regulation or resistance to it. It approaches informality through an interest in what is taken to be its reformatory, resistant or subversive qualities. This usefully implies recognising the ordinary politics of everyday life and the spaces of appropriation that these politics entail as part of the research agenda. Yet, these themes are set up as a one sided narrative: While the attention of these authors to the room for manoeuvre and dissensus usefully allows them to deconstruct the binary between resistance and everyday life in the realm of civil society, their accounts continue to position the state as an antagonistic force existing outside of civil realms. The boundaries of appropriate conduct are set, in this view, solely by the state. Moreover, in this approach, the use of informality is confined through its focus on the poor.

If the limit of this perspective retains the danger of conceptually separating precarious forms of informality from those of the rich, these views also fail to account for informal agency within the state, or, say, the encroachment of state actors. For an understanding of the present case, it is thus useful to widen these approaches. My proposition is to broaden concerns with subaltern agency and to include moments of discretion in bureaucratic work within the same heuristic. How do people create room to manoeuvre in negotiations with state-agents? How do the poor themselves act as governing agents? How do bureaucrats transgress regulations through and within their institutional positions? And how do all concerned define the boundaries of negotiability? These questions bring new actors into view. They aim to attend to the ways in which all governing actors actually work their way through, construct and contest legal, economic and political systems in everyday life. To take up this perspective

requires widening informality research through a relational account of negotiability, in which informal agency is not considered as a two-sided process, but as a dialectical whole.

The nexus of informality and the bureaucratic and legal life of states is also a recurring topic within anthropological work on government sites (Nugent & Vincent 2008; Ghertner 2010; Shore & Wright 2011) and their street level bureaucracies (Lipsky 1980; Heyman 1995; Heyman & Smart 1999; Proudfoot & McCann 2008; Auyero 2011; Gupta 2012; Hull 2012a, b). These strands of literature illustrate both the constraints of agency, for instance in discourses around new public management (Newman & Clarke 2009), as well as the wiggle room that allows individuals to manoeuvre regulatory frames. They conceptualise the scope for action as circumscribed by institutional constraints and as contingent — open to the subjective and emotional understanding of all involved (Marston 2004; Mountz 2004). More particularly, they point to a crucial dimension of bureaucratic life, namely that of discretion.

Discretion is a necessary component in the implementation of regulatory frames (Proudfoot & McCann 2008). It is a theme in the work of Charles Tilly (1999), who describes the pragmatics of regulatory enactment through mechanisms that work to adapt regulations to a given situation, i.e. the work of reading, interpreting and implementing top down plans. For Tilly, numerous ‘mediating mechanisms’ such as ‘polyvalent performances’ or ‘accommodative bargaining’, help to juggle institutional imperatives and discrepant local necessities (*ibid.*). Consider, for instance, Tilly’s aforementioned notion of ‘polyvalent performances’ (1999: 345), a mechanism that he identifies to capture “the individual or collective presentations of gestures simultaneously to two or more audiences in ways that code differently with the audience” (*ibid.*). This mode of negotiation provides a useful example of the ways in which planners bridge contradictory imperatives by recourse to different rationalities of governing. The empirical chapters of this thesis will show that when city officials reflect on decisions to evict, file complaints or make house visits, they relate to their commitments as state officials to public welfare or to the law, but they need to work with these commitments through limited financial means, conflicting mandates, unresolved questions of legitimacy or

regulatory voids. Moreover, the regulatory work of bureaucrats is not only informed by their commitments in bureaucracies, but also by their roles as family members and citizens (Corbridge et al. 2005; Auyero 2010). For Cleaver, they are institutional engineers, “conscious and unconscious social agents, deeply embedded in their cultural milieu, but nonetheless capable of acting and analysing upon the circumstances that confront them” (2002: 16).

Corbridge et al.’s (2005) study of India’s government officials echoes Tilly’s account of the ways in which bureaucratic actors work through discretion. In line with his analysis, they note that “the ways in which technologies of rule are made flesh will depend on the manner in which they are interpreted and put into play by lower level government workers, elected representatives and others” (2005: 7). Consequently, the aim of their inquiry is “to see why and how [technologies of rule] are seized upon, understood, reworked and possibly contested by differently placed people ... in both civil and political society” (*ibid.*). Yet Corbridge et al.’s (2005) project differs from Tilly’s approach in that they focus their inquiry on those spaces of encounter where residents “see the state” and thereby highlight the ways in which power and administrative influence are negotiated in direct confrontation. In the local interaction of the various actors at play, their approach establishes a closer relation, even if it does not break, the boundaries between the agents of resistance and the subjects of oppression.

Boundary work

In a context of heightened negotiability it is crucial to discuss the ways in which actors curtail the scope of negotiability or discretion. The boundaries between toleration and enforcement are a pivotal topic in the work of informality scholars. These literatures frequently start by distancing themselves from a presumption of rigid boundaries that divide an informal and a formal realm. But although these accounts stress the ambiguity and malleability of these boundaries, much less has been written about the ways in which the limits of accepted conduct are negotiated in everyday practices. Rather, the contestation of these boundaries is framed, as my previous discussion of informal agency already implies, either through the

resistance of civil actors against these boundaries, or the arbitrary boundary work of authoritative institutions. Asef Bayat's work on 'quiet encroachment' (2000) usefully exemplifies the former perspective. The latter perspective calls attention to the ways in which state agencies themselves transgress the boundaries they have set up as well as to the harassment that particularly those who are most vulnerable experience (e.g. Bonner & Spooner 2011: 91). Moreover the literature shows that some boundaries are impermeable from the perspective of everyday practices. For instance, it is unlikely that people who experience the 'grey spacing' (2009b) that Oren Yiftachel describes will be in the position to negotiate.

If my perspective on the making of boundaries differs from these accounts in that it is focused on everyday negotiations, these literatures show that an analysis of the ways in which boundaries are defined and redefined needs to recognise that negotiators are frequently not on equal footing. Moreover, it points out that the ways in which actors manoeuvre boundaries depends on the conditions in which negotiations are set, as well as the power inequalities in which they are embedded. But a perspective on negotiations also shows that boundaries are subject to experimentation and to redefinition. Consequently, the work involved in enacting regulations is likely to trigger moments of transformation, and paradoxically, in this sense, also points to openings. In sum, a focus on these processes provides the opportunity to explore everyday engagement in the lower level politics of urban governance, and not only, as the informality literature posits, in the contestations of the subaltern, but also in the practices of the state's official representatives.

Conclusion

I set out to operationalise my research by framing questions of informality through the enactment of regulations in the everyday. I called this approach *negotiating formalities*. This framing follows critical informality research in that it departs from an understanding of the term as a realm outside of the state. But it goes beyond these approaches in that it undergirds the

concept with a relational understanding of states (Mitchell 1991; Ferguson & Gupta 2002). In confronting and combining these bodies of work my account differs from the approaches of most informality work particularly in three dimensions.

First, I argue that the literature on informality needs to depart from an understanding of the state as a strong unit with a coherent body. To concentrate instead on the ways in which state order is negotiated not only makes it possible to decentre the state and account for other sovereign actors, but it also allows me to differentiate between the making of state-imaginaries and the everyday workings of states. As this understanding complicates boundaries between practices that are inside and outside of the state I suggested that it was necessary to consider regulations as enacted through governing constellations. *Negotiating Formalities* then approaches state practices through a wider set of actor-constellations that include brokers of power beyond the state that construct formality as they go.

Second, I proposed accounting for the frameworks of order on which regulations depend, including different legal orders, court proceedings, or social norms. An account of the ways in which governing constellations use these frameworks illustrates the multiplicity, openness and contingency of legitimate orders. In raising awareness for the efforts involved in establishing order, this focus also points to opportunities that allow actors to shape the ways in which order gets implemented on site.

Third, these opportunities led me to discuss the ways in which actors rework the boundaries between what comes to be subject to regulation and what gets left unmolested. In sum, the notion of *negotiating formalities* allows me to trace the constellations through which people enact regulations, the ways in which they manoeuvre frameworks of order and it frames an analysis of the mechanisms through which they legitimize transgressive behaviour and draw the limits of tolerance in daily practices. These three dimensions structure the empirical chapters and will be further developed therein.

This approach has moved my frame of reference away from a focus on informality. To start

instead from the production of formality not only facilitates an analysis that bridges the gap between state literatures and informality accounts and enriches both through their distinct insights on a mutual object of inquiry, it also helps me to overcome the confinements of most informality research to the global South, the poor, the subaltern or the agency of a predatory state. But does this imply, that the concept of informality is not coping well? To be clear, my attempt is not to abandon the notion of informality. Although a contested term, informality is a powerful naming device in research, policy and planning. However, in order to analyse the practices this thesis is concerned with, the concept of informality needs to be rethought. If my starting point in reflecting on these practices is the notion of *negotiating formalities*, a more nuanced understanding of the uncertain and contested production of formality may help to contribute to this effort.

To operationalise this approach requires a methodology that is attuned to researching the different practices, frameworks and power relations that have been mentioned. To sketch its outlines is the task of the next chapter.

3. TRACING NEGOTIATIONS

A Methodological Approach to the Construction of Urban Order

In the previous chapter I have conceptualised formality as a process that is negotiated across a broad spectrum of practices. In discussing how I have approached the interplay of these practices, this chapter builds a bridge connecting this theoretical starting point to the empirical chapters that follow. It explores the methodological considerations that underpin this project, demonstrating the ways in which the study is framed and conducted as it stands.

To grasp the mechanisms of negotiation in more focus, my inquiry combines two perspectives. Urban order is managed through the embodied and situated practices of all concerned, but it is also enacted through the state's institutions, codes, regulations or laws. My investigation starts from the former. But the critical challenge that this chapter confronts is to relate both perspectives methodologically. Thus although my inquiry is centred on the level of situated practices, I explore these in relation to the frameworks of order in which they are embedded. In linking these foci, I adapt Dorothy Smith's 'institutional ethnography' to the context of urban studies (1990, 2005). This feminist approach is a commitment to focus social research on people's everyday lives, and to ground this inquiry in the discursive, institutionalized or legal relationships within which their practices are embedded. Through this perspective, Smith argues, the study of everyday life can account for the 'ruling relations' — relations that enter into and organise social life through unobservable facts that are mediated through replicable texts, discourses, plans, laws and the like (1990: 6). However, given it is a sociological approach, 'institutional ethnography' neglects the spatialities of social

practices. As Billo and Mountz (2015: 1) suggest, “geographical scholarship on institutions can be enhanced and, in turn, has much to contribute to the broader interdisciplinary field of institutional ethnography such as understandings of institutions that account for spatial differentiation”. In this spirit, my project extends the focus of this twofold approach to the spatial grammar of everyday practices in order to trace the ways in which individual engagement and structural constraints combine to produce differences across space.

The objects that are at the centre of my inquiry encompass accounts of negotiations from the viewpoint of different groups concerned with allotment dwelling as well as documents in forms of transcripts of court decisions, administrative regulations, statutory texts, laws and the like. As each set of data is best understood through a distinct method, the study combines different techniques of research, namely interviews, ethnographic observations and documentary analysis. A case study approach that aligns with the empirical tradition of qualitative inquiry (Denzin & Lincoln 2005) makes it possible to hold these methods in tension. This situated research approach makes it possible to develop accounts of the complexity of the phenomena being investigated, *explaining* rather than *showing* causalities and processes in focus (Flyvberg 2006). This chapter also reflects upon the practical steps taken to gain access to the field and to conduct and analyse the study. Committed to reflexivity in research, it seeks to unveil the different tools through which I collected my data. This includes a discussion of the reliability of the material produced and the positionality of my participants and me. Finally, this chapter outlines the interpretative approach through which I came to understand, analyse and frame my data.

In designing and implementing this methodology, ethical considerations influenced multiple aspects of this project. As the nature of the practices under study makes a careful consideration of ethical conduct even more salient, these considerations already shaped the conception of the case study. Moreover, the process of fieldwork as well as the ways in which the arguments of this thesis are framed and presented pose critical ethical questions. As Schwedler notes, “[t]he reality is that we cannot control how our scholarship is used or

interpreted by others, but we can anticipate how it might be used and be more self-conscious about what forms of power our work challenges or reinforces” (2014: n/p). Schwedler’s contention points to the necessity of considering the possible ways in which this study might be put to work. As these reflections shaped the methodological considerations that I present in this chapter, I discuss them throughout its different sections. These sections address first, the perspective and framework of my research, second, the fieldwork design and process and third, my strategies of analysis.

Research Perspectives and Framework

A case study approach

In the discipline of Urban Geography case studies are a well-established way to produce knowledge through an in depth understanding of a general concern. Case studies make it possible to develop concrete and context-dependent knowledge (Gomm et al. 2000), but precisely because of this dependency the approach also faces recurring critique regarding the limits of its scope and the generalisability of its conclusions.

First, as case studies are based on situated research, they face the challenge to connect local findings to the macro structures that play out in and beyond a particular context. Therefore, it is crucial to note that I conceptualise my case not as a bounded or coherent local unit, but following Shore and Wright, as a set of practices and sites “that open (...) windows onto larger processes” (2011: 11). The practices under scrutiny are *situated* locally, but they are also *embedded* in institutional and legal configurations that exceed the local scale. Institutional ethnography points directly to the possibilities of reconciling these foci. Smith’s approach to social inquiry maintains that people relationally produce a web of rules that shapes the context and the ways in which practices are carried out (1999: 75). In line with her approach, my inquiry examines the interplay of practices and the frameworks of order in which they are

embedded as an interconnected process that is socially constituted (cf. Hall 2012: 131). This approach is distinct from studying how people reproduce structures in a Foucauldian sense where the focus is, as Fairbanks notes, on “the ways in which ‘the channels of subjectivity / citizenship’ ‘add up’ as it were in reworking, re-regulating, and reproduction liberal modes of governance” (2012: 556). Rather than to assume that people are reproducing macro-level control, it attempts to see people’s everyday lives not merely as constraint through ‘ruling relations’, but also as a terrain of possibilities, loopholes or chances that reshape imperatives of order. This approach connects the micro, meso and the macro through the frictions that arise as different actors reach out to activate or alter regulatory frames (Krause 2013).

Second, scholars have linked the context dependency of situated research to questions about theoretical generalisation. A common critique that is levelled at case study research is that the scale of analysis limits the scope of its contribution to knowledge. For instance, Herbert notes in a discussion of ethnographic methods that a “focus on a single or very small number of cases ... is sometimes criticized for failing to provide few, if any, generalizable propositions” (Herbert 2000: 560). Yet, contrary to the critique described by Herbert, some of the most established literatures have shown that an intensive, exploratory and theoretically informed ethnography can lead a search for more universal claims (e.g. Burawoy 1998; Bourdieu 1982). In line with these methodological requirements, my approach is *intensive* in that it focuses on a small number of sites and studies a circumscribed problem in depth. My study neither seeks to represent the totality of regulatory practices that manifest in my research site, nor to provide a quantitative sample. Rather, it aims to be *paradigmatic* in that it exemplifies from a site that could plausibly represent others and allows me to provide a narrative from which we can *explore* and *gain* detailed contextualized knowledge rather than *show* the everyday workings of regulatory regimes. As Flyvberg suggests, it seeks to “clarify the deeper causes behind a given problem and its consequences”, rather than “to describe the symptoms of the problem and how frequently they occur” (2006: 13). Moreover, it is *theoretically grounded* as it builds on and brings the case into a theoretical discussion, as this chapter will proceed to show. Thus conceived, situated research that relies on a small-scale is neither less generalizable nor are its find-

ings more locally circumscribed than an inquiry into larger social structures (cf. Krause 2013).

At the same time, this approach implies that dissertation is not written as an in-depth study of the allotment users themselves. It does not, in other words, identify and profile the different groups of gardeners along multiple axis of difference such as gender, class or race and use these to systematically trace their positions within processes of negotiation. Rather, in exploring processes of negotiation the study is designed to capture these differences as they play out in the everyday. This approach was chosen for methodological and practical reasons.

On the one hand, this decision is based on the size of the study. Given that the present research covers a breadth of processes of negotiation in multiple sites of gardening, it hardly permits me to map or profile specific populations 'groups' and make strong claims about their positioning in processes of negotiation. On the other hand, this study is intentionally designed as an inquiry into the conditions of participation of and material inequalities between different individuals or collectives. Therefore my analysis is focused on mechanisms that operate at the level of interaction and allow me to show how the privilege, disempowerment or exclusion of actors relates to people's multiple embeddedness in social and institutional relations.

This approach runs the danger of downplaying the power of social vectors of difference, but they lurk through the empirical chapters of the thesis in multiple ways. They include questions about people's access to allotment plots that is dependent on capital, about the privileges of insider knowledge that is held by majority group and thus dependent on ethnicity, or, about the power of gatekeepers is that works to defend patriarchal gender relations.

In short, the research privileges the study of mechanisms of negotiation over an account of specific groups in the city. This allows the study to theorize power relations in negotiation through people's embeddedness in social and institutional relations, rather than through pre-defined social vectors, such as ethnicity, gender or class.

Perspectives of inquiry

The previous section has illustrated how I scale up from the micro and generalise from the particular. In outlining my perspective of inquiry, this section probes the seemingly contrary assumption that theory also needs to be particularised.

My approach adopts an implicit comparative perspective. As part of a post-colonial engagement for new research perspectives (Robinson 2006; Parnell & Robinson 2012; Comaroff & Comaroff 2012; Duminy et al. 2014), I attempt to ‘post-colonize’ my case (Hentschel 2015: 82) — to explore a site that has commonly been understood through mainstream conceptions in urban studies through theories from ‘off the map’-sites (Robinson 2002; Schindler 2014). Briefly, this perspective is based on a critique of ‘developmentalism’ (Robinson 2006), which draws into focus that urban research has tended to study a small number of cities in the global North, such as Chicago, New York or Los Angeles as hubs of modern life and urban future, while the centres of the South are taken to be a place of development. Whereas in this “imperialist mode of theorizing” (Peck 2015: 165) Northern theory claims universal validity (Sheppard et al. 2013), the global South is understood as a set of “interesting, yet anomalous, empirical cases” (Hentschel 2015: 80). That informality has been, as mentioned in Chapter 2, developed in the South is a case in point.

Post-colonial research has demanded that the focus of research be altered in order to unveil the partiality of academic truth-claims, question the global purchase of mainstream theorisations and account for the diversity of local life (McCann et al. 2013: 584). One way to reframe post-colonial orders of knowledge is to theorise from case study research that has been conducted in diverse sites across established binaries. Another vehicle to develop more global theoretical accounts is to adopt a comparative perspective. My research is committed to this project.

On the one hand, it proceeds from the idea that the experiences of cities that have been less visible in contemporary research make it possible to imagine different development trajectories, alternative narrations and new analytical paradigms. Following this approach my project

seeks to rethink Berlin through innovative perspectives. It attempts a critical estrangement that deconstructs normalcy and makes it possible to rethink some of the premises that are deeply engrained in urban studies (Lanz 2015). On the other hand, this framing seeks to take the insights gained in Berlin as a source for the theoretical improvement of a concept — informality — that has been framed elsewhere. This implicit comparative approach (McFarlane 2010) bears a promise that goes beyond the possibilities of testing existing theories through confirming or disconfirming cases (*ibid.*). It builds on the claim that theory can and should travel outside of its original context to be shaped, challenged and reformulated across space, as it places, according to McFarlane, “greater emphasis on the potential value of indirect learning” (2010: 733). Crucially, I do not advocate the projection of empirical findings from one context to the next. But as McFarlane notes elsewhere (2011: 111) “*because* the particularities of place and history are important, learning can occur but usually indirectly”. To ‘post-colonize’ Berlin thus involves translating theoretical ideas to unfamiliar terrain (cf. Auyero 1997: 510), but it also makes it necessary ‘to interrogate cities in their own terms’ (Robinson 2014: 61), or as Roy has put it, “to think via historical difference” (2015a: n/p).

This unfamiliar terrain has crucially shaped the conceptualisation of my case. In this sense, my research aligns with an inductive tradition (Gray 2009: 14-18), although not very strictly speaking. I started this research with the conceptual apparatus that the literature on informality offers and it framed my thinking throughout (Herbert 2000: 552). However, as my experience in the field shaped my assumptions and preconceptions, the theoretical focus slowly shifted.

Situating the case: the field site

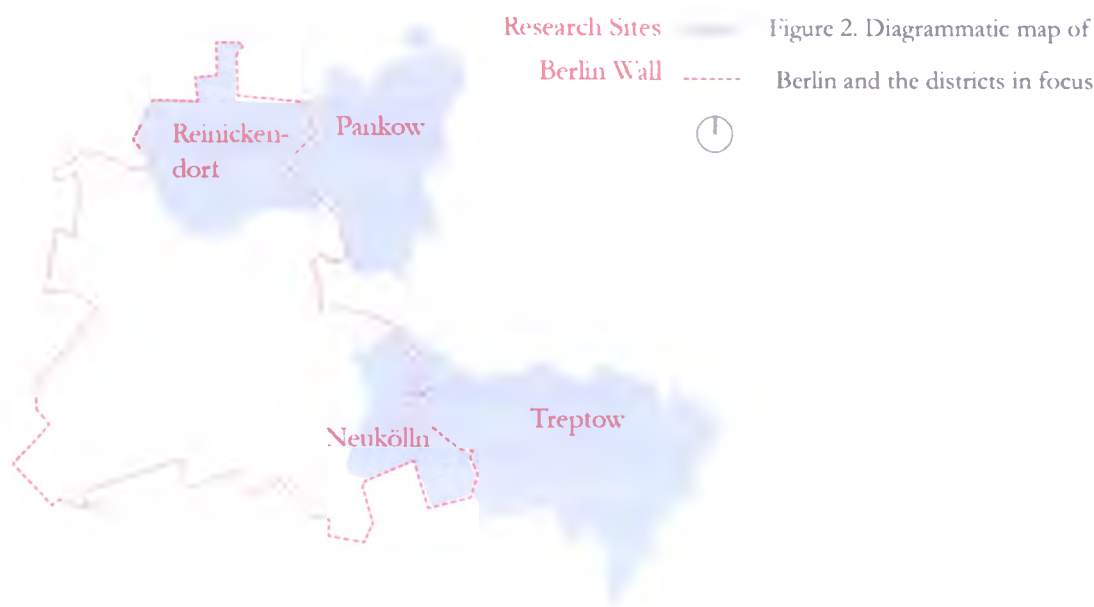
The methodological approach I have previously outlined makes Berlin a particularly productive place in which to conduct this study. First, a case study in Berlin allows me to problematise the trajectories of informality research. As the capital of Germany, well known for

its strong bureaucracy, Berlin represents a ‘least likely’ case to study informality — a case that should have exhibited very orderly rule — as it does in many ways as discussed in the empirical chapters that follow. Second, it offers innovative perspectives on Berlin. After two wars and forty years of division Berlin came to be studied predominantly as a latecomer to the neoliberal development trajectories of the European metropolis. But the city’s turbulent 20th-century has experienced shifting regimes of rule that overlay in and continue to impact on the contemporary urban landscape. In thinking through the traces of its shifting geopolitical frames, the case of allotment dwelling makes it possible to add new perspectives to commonplace theorisations of Berlin’s urban change. Chapter 4 discusses this claim in more detail. Third, Berlin is a fruitful place to study allotment gardens. With 958 allotment colonies it is by far the centre of the German gardening movement (Bundesverband Deutscher Gartenfreunde e. V. (BDG) n/d). The scale of the phenomenon provides a greater possibility for finding critical cases and makes it possible to examine a strong garden movement that is invested in processes of negotiation. Finally, Berlin is home to a specific segment of the German population. Although Berlin is the capital of Europe’s powerhouse Germany, it is also the poorhouse of the country. As Berlin’s allotment gardeners are predominantly described as part of the lower middle class (Buhtz et al. 2008), the city is a productive place to consider a population that is often neglected in research on urban informality, which focuses mainly on the poor.

Moreover, numerous practical and strategic reasons guided my case selection. As I lived in Berlin and explored the city between 2001 and 2011, I am familiar with much of its urban landscape and social life. I studied architecture in the city and worked in various local firms, and as a result I also possess intimate knowledge of Berlin’s planning system, its bureaucratic structures and its politics of urban development. Finally, as German is my mother tongue, my case selection allowed me to fully understand all interviews and textual sources.

The case is not the city as such. Rather the study is multi-local (Stake 2008: 123) in that it focuses on numerous allotment compounds in four districts: Pankow, Neukölln, Reinickendorf

and Treptow (see Figure 2). I chose these districts after visiting a large number of colonies in all 12 districts of the city and literally got lost in the vast network of gardens. In attempting to systematise my research, the selection aimed to cover a broad variety of colonies across a range of regimes of regulation (more or less relaxed) and locations in the city (different historic and legal context in former East and the West Berlin). It was also guided by my familiarity with the areas and the possibility of gaining access to possible interviewees.



Although my approach is multi-sited, I do not engage in an explicit comparison between the districts in which I conducted the study. Rather than using these sites as distinct and spatially defined cases that allow me to control for variables and draw out differences and similarities between these sites, the diversity of sites being chosen aims at accounting for the difference that geography and (institutional, historic and social) context make within the city.

More precisely, this variation seeks to uncover and contextualize empirical variation in the manifestations of formality in Berlin in order to allow the narrative of this project to speak of the city not from the viewpoint of just one particular district. At the same time, this search for inter-contextual variation aims to be specific and historically informed by accounting for the diverse lines of influence — the socio-political, economic and cultural, dynamics — on which negotiations depend in these different sites. The restriction to four districts thus

helped me to keep the study small enough to allow me to pay attention to contextual particularities and conditions such as the institutional relations in which negotiations play out.

As these differences in contextual particularities have effects on the practices of negotiation they matter to the results of this thesis in that they provide material from which to analyse the contingency of formality and its multiple manifestations in different sites of regulation. This variability can be traced back to a number of contextual specificities.

The modalities and effects of the negotiation of formality depend on the specificity of the institutional context. Due to Berlin's administrative status as a federal state, the local institutional politics are dependent on multiple political (e.g. the district mayor, district council) and administrative stakeholders (e.g. from the bureaucracies of the city or the allotment association), whose political affiliation, cooperation and institutional culture lead to varying practices of regulation between and within the districts under study. Accounting for these differences allows me to show some of the ways in which institutional actors use their room for manoeuvre as well as the constraints associated with local institutional rules.

Moreover, negotiations depend on the legal, material and social infrastructures that have been and continue to be shaped through the multifaceted histories of urban change. As a city that has long been politically and spatially divided, these differences are most acute between its former Eastern and Western districts. Their distinct histories have produced differing legal conditions, which, in turn, have crucial effects on the materiality of and sociability in the allotment colonies that are most explicitly addressed in Chapter 4. Accounting for the specificity of the material, social and legal infrastructures that constitute formality is critical to an understanding of the multiple expressions it can take.

In addition, demographic differences in the composition of the population (class, age, gender, ethnicity) influence the modalities and actors of negotiation in the different districts of the city. Although — as I have previously argued — the size of this study constrains me from systematically mapping the differences between these groups they bring variability to

the mechanisms of negotiations under study in this thesis that lead me to different modes of participation and exclusion in negotiations. Finally, the location of the colonies in the city and within the districts plays out in negotiations as, for instance, the cost of land or the visibility of practices depends on location and matter to the negotiation of formality. These geographical questions are discussed most explicitly in Chapter 7.

In sum, a multi-sited approach that accounts for these qualitative differences allows me to show a multiplicity of ways in which formality is produced and permits me to relate this variability to the contextual parameters on which it depends without engaging in formal comparison.

Furthermore, the project is designed as a multi-sited study due to an ethical concern with anonymity, in order not to compromise specific colonies, since the activities being described are often understood to be unlawful and, if explicitly identified, might attract disciplinary attention from the state. To a certain extent this breadth restricts the depth of the inquiry. The multi-sited approach of the thesis does not allow for in depth-descriptions of particular sites. To publish on the specificity of one colony would have made it possible to identify particular sites and to call the individual gardeners or associations into account. When considering particular colonies in more depth, I refer to them anonymously. To offer a more vivid account of the materiality of the places I studied, the empirical chapters of the thesis offer multiple vignettes that draw out paradigmatic situations and provide some texture to the analysis.

Fieldwork: Design and Process

The mix of methods that I used to conduct this study reflects the multiplicity of methodological consideration that I discussed above. While the majority of my data stems from interviews with bureaucrats and allotment holders, I also conducted ethnographic observations and analysed documents. Given the interpretive nature of my case study approach, the project is not designed to allow for triangulation as a method of validation, although the

different data-sets overlap to permit a certain comparability of the findings. Rather, I use multiple methods to overcome the constraints of each individual method and grasp the conundrum of negotiations in governance from different angles. As I am less concerned with the cross-validation of my data, it is crucial to provide an idea of ‘the instrument’ (Ball 1990: 170) employed to conduct this study, namely the researcher herself. Unlike most commonplace understandings of quantitative studies, my inquiry relies on interpretation. As Herbert notes, “ethnographers expect the meanings of social life to emerge ... as daily practice is interpreted against the ethnographer’s developing understanding of the larger cultural system of which it is a part” (2000: 553). To reduce bias, I intended to account for my subjectivity through a reflexive approach (Bourdieu 2003, Bourdieu & Wacquant 2006) and ‘embraced’ the field effects I produced. For Burawoy, a reflexive science attempts not to detach the researcher from the object of study or avoid that she contributes her own assumptions, but to confront them (1998: 5). Thus in explaining my access to data, this section also addresses my positionality in this study in order to unveil the conditions under which the research was conducted. Additionally it provides an overview of the methods that have been applied, points at the ways in which they complement each others and discusses my use of each technique.

As I have previously indicated, the conflictual nature of the issue being researched requires a heightened sensitivity to a number of ethical concerns. Most important, it requires that the researcher protects her participants against any possible harm that this research might cause (Duncombe & Jessop 2002; Arvidson 2013). For Brown, “[t]he idea that we can ‘inform’ people of the risks of our questioning them ... seems a bit odd” (2014: n/p). My experience reflects his contention that our interviewees “are often likely to know far better what the immediate consequences can be” (*ibid.*). Nevertheless, I obtained informed consent and distributed information sheets to all of my interviewees. In addition, all personal data has been anonymised to ensure that participants cannot be identified. I invited everyone I spoke with to choose their pseudonyms, but since my respondents rarely indicated particular preferences, I matched the list of my interviewees with the most frequently used German names. Due to the limited number of districts and professionals in the field, the disguise of

the interviewees in the bureaucracy is tricky. Consequently, I restrain from references to the particular districts in which bureaucrats work and only distinguish between colonies in the former Eastern and Western part of the city, when this information is of explanatory value. Above all, I decided not to disclose any data that might damage the reputation of my interviewees or be disadvantageous to their interests in any way. This includes the photography I took during my fieldwork. Only very few images that do not allow the identification of particular huts appear in the following pages.

Interviews

Interviews are frequently understood as a way to generate information about the perceptions, experiences, behaviours and motives of interviewees (Hammersley 2013: 52). In institutional ethnography the interview attempts, as McCoy suggests, to explore “the institutional hooks and traces, as well as the lived experience of the teller” (2006: 111). In my project, they are designed to gain insights into the frameworks of order, the social relations through which they are produced as well as the experiences and understandings of negotiability from the perspectives of all concerned.

In Chapter 2 I set out a number of assumptions that are crucial for the selection of interview participants: where informality is located and how it is conceived of crucially determines who needs to be heard. The governing constellations I consider are framed in an open-ended way. They include the administrators at the district level, the so-called allotment garden administrators [*Kleingarten Sachbearbeiter*], residents in the allotments and allotment holders with administrative responsibilities. All of these actors participate in reproducing and changing order. I conducted interviewees in each of the selected districts in four groups: First, I interviewed the previously mentioned allotment garden administrators as well as a small number of planners or city representatives that are involved in the organization of these sites. My second and third group form part of a civil association, the allotment garden association

[*Kleingartenverband*] which works through various tiers of management on the level of the colony, the district, the city and the nation. From this association I interviewed, on the one hand, representatives of the district level associations, the District Association of Allotment Gardeners [*Bezirksverband der Kleingärtner*]. On the other hand, I spoke to the representatives of this association on the level of the colonies, the so-called chairmen of an allotment colony [*Vorstandsvorsitzende*]. Fourth, I interviewed allotment dwellers. As allotment representatives can also be allotment dwellers some of my interviewees fall into two groups. Across these four groups, I conducted a total of 34 interviews that are referenced in the appendices through a list of pseudonyms and the dates when the interviews were conducted. This more systematized approach allowed me to grasp variations in the ways in which actors use their spaces of articulation, compare contextual differences across space and to take more control of the interview process.

As indicated above, I divided the interview process in two stages: the first between July and November 2013 and the second between April and July 2014. I conducted semi-structured interviews that lasted between 1 and 2.5 hours. Although I frequently changed my interview guides, they helped me to uphold a degree of formality and elicit similar information from all interviewees in one group. They also worked to remind my interviewees and me of the purpose of the conversations and make sure I covered relevant themes in the agreed time-frame. Nevertheless, I treated the guide in an open-ended way making space for the concerns of my participants to shape the course of the conversation. Although the verbal accounts of interviews are perhaps the most articulate way to represent experiences, it is crucial to explore the interview-situation beyond their literal content. An exploration of *how* things are being articulated provides key to understanding much of what has been said. Moreover, as Cochrane notes, interviews not only require careful attention to what has not or cannot be said, but also to appearances or the settings within which they take place (2013a: 43). Thus although most interviewees allowed me to record our conversations, I also took notes on all relevant details that are not captured by audio file.

Group 1: Interviews with allotment garden administrators

In the interviews I conducted with my first group, allotment garden administrators, I approached my interviewees by e-mail and included a project outline in the initial letter. I was able to speak to most of the people I had approached although sometimes I had to seek the permission of their superiors. The interviews took place in their offices. I addressed four sets of questions, namely a) how they implemented statutes on the ground, b) where they drew the borders of legality and acceptance, c) the motivations upon which they framed their engagement and d) the specifics of the district in which they worked including local conflicts around, for instance, evictions or recent law suites. With the help of vignettes (Barberis 2010) I presented my interviewees with possible and specific, yet hypothetical cases which helped me to understand the ways in which they would handle these examples and the room for manoeuvre in their enactment of regulations. At times, allotment garden administrators were reluctant to give specific answers, but happy to chat about similar conflicts they had encountered in the past. With talkative interviewees it was often difficult to present the vignettes, because they had already addressed similar cases before I managed to introduce my imaginary stories and tended to refer back to previous examples instead of responding to them as fictitious cases. I altered my guideline repeatedly as I learned more about allotment dwelling. I started, for instance, to ask about the time my interviewees had been engaged in their jobs once I noted that the attitude of allotment garden administrators who had worked in the former GDR differed from that of their younger colleagues. I will discuss this theme in more depth in Chapter 5.

Despite initial difficulties, I was soon able to ease into the interview situation. I conducted a couple of interviews trying in vain to unravel the bureaucratic jargon of my interviewees. As practitioners provided detailed explanation of legal procedures and recent lawsuits, I was unable to look beyond the immediate meaning of their accounts. As a female postgraduate in her early thirties, I also felt that they belittled me as a naive student. Most allotment garden administrators I interviewed were women twice my age who had already dealt with transgressions in allotment gardens from when the Berlin Wall was still standing. Instead

of subjective experiences, I encountered a series of ready-made phrases that were part of their professional roles in the institution. In addition, my first interviews were haunted by an ethical concern that restrained me from asking clear questions: I neither wanted to point my interlocutors to informal practices they had possibly been unaware of, nor did I want to imply that they were unable to ‘properly’ govern their area of responsibility. After a couple of interviews I learned, however, that practitioners already possessed intimate knowledge of the dwelling practices in their colonies and gradually dropped my caution. This helped me to outline my research agenda more explicitly at the beginning of each interview and to get more directly to the information that I sought. In later interviews, I also made sure to drop a piece of ‘expert’ knowledge, e.g. a reference to specific court cases at the beginning of the interview to avoid my interviewees starting their explanation from zero. This strategy not only gave me more confidence to ask bold questions, it also enabled me to access more pertinent information more quickly. Some practitioners inquired about their colleagues’ work in other districts. Clearly, despite my promise of anonymity, it follows from this question that the information I was given was provided under the assumption that it would possibly become available to others too.

Groups 2-4: Interviews with allotment holders

As I have previously outlined, I organised the interviews with allotment holders in three groups, namely allotment dwellers, representatives of the colony and of the district association of allotment gardeners. Not surprisingly, access to the first — allotment holders, who permanently live in their huts — proved to be complicated and only a mix of strategies allowed me to recruit participants. My initial strategy to gain access to this group had been to place an advertisement in the *Der Gartenfreund*, a widely distributed horticulturist journal. But the draft was ‘censored’ after endless discussions with the editor in charge: As the text announced my search for gardeners, who “locate the centre of their lives in their gardens” — a phrase that I had negotiated with one of the editors who refused to print the words ‘home’

or ‘living’ — the board of the magazine removed the ad at the proof-reading stage. As I was told, the editors feared that its message would spread the idea that it might be legal to live on the plots and encourage gardeners to move into their sheds.

My second strategy, to recruit participants via postcards that I distributed on my walks through the colonies proved to be more effective (see Figure 3). I aimed particularly at finding residents without residential permits and included my phone number, so that participants would be able to reach me in case they were willing to be interviewed. To my own surprise, a number of people called me back — usually because they had a personal reason to participate. For instance, I conducted one interview with a gardener whose husband held a diploma from the Open University, and as I had marked my academic affiliation on the postcards she was willing to help me out.

I was also able to recruit numerous participants via the gardening associations, for instance through an allotment bureaucrat, who established — in an act of faith — a contact with two gardeners whom he knew were living in one of the colonies of his realm of responsibility. However, I also experienced rejections, particularly when contacting the associations via email. Finally, I found a couple of interviewees randomly, while strolling through the gardens, talking about the topic in public or mentioning my search to friends. But some of these more incidental possibilities came to nothing when I called people that had initially provided their numbers. Given these challenges, it was a relief that my second group of interviewees, the chairmen of the allotment colonies were easier to approach. I was able to contact these allotment holders by email, but my requests for interviews were sometimes denied. Here again, the geographic spread of the cases and the large number of colonies in the city proved to be advantageous, as I was able to find participants of the same group in other colonies when gardeners turned down my request. The third group, administrators in the district association of allotment gardeners, constitutes one of my most important groups of informants, as these ‘functionaries’ are the contact point for the allotment garden administrators in the bureaucracy of the city. Although some were too busy to give an interview, most answered my emails and agreed to meet.



Figure 3. Recruitment cards³

I conducted all interviews with allotment holders in the huts or the clubhouses of the colonies. I treated my guidelines less rigorously than I had in conversations with the allotment garden administrators. Although I aimed to control the flow of the conversations, I was careful not to interrupt the narratives of my interviewees. My intention was to stage the interview more as a conversation than a formal procedure in order to build more trust. Interviews with allotment holders aimed at providing a detailed understanding of a) the ways in which the gardeners framed their transgressions and the strategies that allowed them to stay put or avoid regulatory interference, b) the neighbourhood and trust relations in the colonies as well as the relations that they maintained with others outside of the colony, such as the bureaucracy or local politicians, c) the ways in which they implemented regulations and put pressure on others to conform to rules and, d) how they came to occupy a function or live in a garden. One of my questions inquired about fellow gardeners who were dwelling on their plots. Yet even without this trigger, most participants used the interviews to complain about others, in particular the heads of their colonies or the boards of the district association. Hence some interviews ended up being very personal accounts, which brings me to the questions of responsibility that arose from my position in relation to the allotment holders.

3. The main body of text on the cards translates as follows: Dear Friends of the Gardens (a common way to address allotment holders), for a study in the context of my doctoral research I am looking for Berliners, who live permanently or part of their time in their allotment huts. I would greatly appreciate if you would take some time for an interview with me. Your information will be treated confidentially.

As Cochrane notes, it is crucial, not to treat the interview as a way to *collect* data, but as a social process in which meanings are *jointly* negotiated (2013a: 41). It follows not only that interview data relies heavily on the relations and modalities of interactions between interviewer and interviewee, but also that interviews hardly make it possible to uncover some hidden truth. Interviews are thus a means of developing evidence that requires interpretation and raise important questions regarding the power relations that play out within an interview process. In this spirit, a plethora of methodological literature points to the dangers of exploiting one's power as a researcher and highlights the harms a researcher can cause in the process of negotiating access to sensitive information (Oakley 2005: 66 [1981]).

These discussions hardly speak to my experience in the field. In addition to age differences (despite a generation change under way, most gardeners are beyond their fifties), I felt alien due to my lack of dialect (I do not speak with the local accent) and my lack of knowledge of the local rules. I thus hardly felt that I was in the most powerful position to negotiate the information I sought. Moreover, it was obvious for gardeners to assume that I was part of the bureaucracy and thus not to be trusted. Once people had agreed to speak to me and I was able to further explain the project, it was possible for me to build some degree of trust. If I did not fit in with the groups I interviewed in terms of my age, I blended into the mostly 'white' gardens in terms of race and I also assume that being female, friendly and approachable proved to be advantageous to overcome some of their suspicions. But while my appearance may have helped to establish a sense of security, it also bears the danger of being manipulated. Given the nature of my topic, my respondents frequently used the interviews to pursue their own agendas — although this is certainly not a distinguishing feature of my study (cf. Venkatesh 2008). In some instances, participants wanted me to speak to certain other allotment holders so that I would see a specific house or get a certain idea of allotment dwelling. In other cases, interviewees took my engagement to be an opportunity to utter their complaints about nuisances in their or other colonies. In addition, interviewees attempted to understand to whom I had spoken and to learn what others had confidentially disclosed. I cannot claim that I could always see through these attempts and I certainly do not want to

imply that I was intentionally manipulated. But these assumptions are part of the premises upon which my interview data can be read, namely as an incomplete and subjective narrative shaped by emotional agendas. Working in various colonies across the city helped me to not get too immersed in the local conflicts and intimate structures of particular colonies.

Ethnographic observations

While the major part of my research data stems from interviews, I complemented this material with ethnographic observations in order to gain a better understanding of the lived experience of allotment holders. In line with my interview approach, ethnographic observations aimed to grasp the ways in which political and legal imperatives manifest at the level of conduct both within institutions and at the ‘street’- (i.e. garden) level (cf. Fairbanks 2012: 560). Not unlike interviews, ethnographic observations facilitate the development of in-depth knowledge on the everyday construction and enactment of meanings (Herbert 2000: 551; Hall 2010: 60). But where interviews are limited by the fact that narratives and action may often diverge, ethnographic observations make it possible to record directly observable phenomena, such as social interaction or material constellations through the embodied presence of the ethnographer on site. In this way the researcher herself is able to experience, as Herbert puts it, “processes and meanings which undergird social action, and which enable order to be reproduced and sometimes challenged” (2000: 551). This proximity opens up questions of representation, reciprocity and accountability that I discuss below. Within the framework of institutional ethnography, my use of ethnographic observations aimed at explicating how institutional frameworks are felt, produced and contested within and beyond institutional spaces in the everyday (Diamond 2006; Billo & Moutz 2015: 7). It aimed at observing the spatialities and social patterns of interaction and the material solutions that gardeners find to adapt their huts to regulations. How, for instance, do neighbours interact with each other in the gardens? How openly do they enrol in practices associated with dwelling?

In practice, my use of ethnographic methods can be described as a series of *perpetual encounters*. As it is difficult, if not impossible to ‘hang out’ in the rather private allotments, as these grid-structured colonies do not tend to provide spaces for external visitors, a good way to intrude the intimacy of the gardens was to walk through the colonies. In the first stage of my research, I took long strolls through the allotment compounds in order to get to know the colonies and in the hope to chat to gardeners. I used my walks to distribute the recruitment-cards and recorded my observations through field-notes and photographs. Officially, one of the intended benefits of allotment gardens is to provide relaxation to a wider public. Yet, strolling through the colonies is always noted, at times considered intrusive, and when taking pictures, seen as a reason to intervene. This caution is necessary, as one interviewee told me, because allotment holders are afraid of robberies (*interview*, 27.06.14). At times gardeners also approached me to inquire what I had put in their letterboxes, but these encounters were rarely followed by longer conversations. In addition to observing the practices of gardeners in passing, I spend a couple of weeks in the summer of 2013 taking care of a friend’s garden and frequently chatted with neighbours. In sum, these visits allowed me to establish an overview of the phenomenon, in particular the materiality and building structures as well as triggering questions for my interviews.

In order to further immerse myself in the colonies, I decided to lease an allotment garden and I became a member of an association in the writing stage of this thesis. This strategy has proven to be a fruitful way to gain access to information. Most importantly, the hunt for the right hut provided me with an opportunity to get in contact with gardeners, to learn necessary tricks for remaining under the radar and to get an inside glimpse into the lived experience of allotment dwelling. In my pursuit for a garden, I struggled to reconcile the role of a researcher with that of a fellow gardener. Although I was initially worried that any reference to the study would prevent my gaining access to a garden, I nevertheless decided to introduce my role as a researcher as well as the theme of my project when the opportunity arose. Mentioning my research not only seemed more ethical; it also triggered further chats about the colonies.

Document analysis

It may be difficult to get to the groundwork of regulations through documents, such as laws, contracts or reports, but the question of urban order is not one that could be answered without these accounts. To understand how spatial order is shaped through the work of documents, I combined ethnographic methods with the study of paperwork. As institutional ethnography is concerned with the ways in which sequences of text coordinate ‘relations of ruling’, this method of investigation is particularly well placed to frame an analysis of documents. Smith (1990) distinguishes between active and passive considerations of text. Typically, the text is, as she notes, taken to be a passive object that is devoid of social relations — a record of decisions or a tool of bureaucratic organisation that is easily accessible on its own (1990: 90). Conversely, for her, the ‘active text’ is itself efficacious (*ibid.*). She writes: “As an operative part of a social relation [the text] is activated, of course, by the reader but its structuring effect is its own” (*ibid.*: 91). The document relies, in other words, on the reader’s interpretation, but it is also organising social action.

Broadly speaking, my analysis of documents is focused on two more or less active modalities through which textual discourse shapes socio-spatial relations. On the one hand, I am concerned with the ways in which documents influence spatial order through the understandings that are embedded in text. As Hull notes, paper-records are crucial to the construction of bureaucratic objects, as they classify and frame “subjects, objects and sociality” (2012: 259). In writing and reading documents, bureaucrats literally bring new objects into being (cf. Jones 2011: 72). In this sense documents are ‘mediators’ (Hull 2012: 253a), as they transform a sense they are meant to carry. To account for these translations, my analysis considers documents regarding the ways in which they construct and distort meanings, which, in turn, shapes the production of order. On the other hand, I consider the relational processes in which documents are embedded to explore the power-relations that are inherent in or shaped through their circulation. For example, when Smith writes in *Texts, Facts and Femininity* (1990) about two different textual accounts of the same event — a dispute between citizens and the police — she focuses not merely on the content of these texts, but on the ways in which

they organize social activity between an author and an audience of ‘text activators’ (1999: 80). Textual practices are, as she writes, “operative in the work of accomplishing the social relations in which texts occur” (*ibid.*: 93). To understand this work requires what Dittmer calls a ‘situated reading’ (2010: 20) that looks beyond the immediate meaning of text in order to contextualise its content (*ibid.*: 18). In following these accounts, I analyse documents regarding the ways in which they enter into public life, circulate through different social spheres and interact with local practices. Altogether, my analysis of documents follows a linguistic approach (Dittmer 2010: 20), focussing on the study of the objects of knowledge that are created in documents, as well as a more contextual approach, connecting the material to the broader realm of social interaction and understanding the performative quality of the document as a circulating object (*ibid.*).

I considered five types of documents: First, I focused on legal statutes and administrative regulations. Access to this set of documents was particularly easy, as a plethora of relevant material including the BKleinG, the city’s administrative regulations, as well as a sample lease contract are available on the website of the Senate Department for Urban Development and the Environment [*Senatsverwaltung für Stadtentwicklung und Umwelt (SenStadt)*]. As a non-legal scholar, it was more challenging to secure my second set of textual data: the transcripts or reports of court cases, but I learned from a lawyer that all court cases are documented in an online database, the *C.H.Beck* to which I had access in the library. Given the vast quantity of material on law suits relating to allotments, my search followed the field, i.e. I constrained my exploration to those cases that I had come across in interviews. Third, I took account of the statutes and pamphlets of the allotment holders that I either received online or was handed during the interviews with allotment holders or allotment garden administrators. Fourth, I examined a number of historical documentations of the colonies that I received from allotment holders. These self-publications are critical to understanding the life in the colonies and constitute a crucial source for a historically informed account of allotments in Berlin, which Chapter 4 provides. They are stories written by allotment holders for allotment holders and not unlike other documents they are linked to particular ways of making mean-

ing and frequently convey a myth of the origins and social relevance of the colonies. Fifth, I considered the secondary and tertiary material, in particular statistical data and media reports. The former constitute the most tangible form of data when it comes to understanding the demography of the city. The latter provides a means through which the public come to understand the processes in allotment gardens and a way to keep an overview of newsworthy occurrences in the gardens.

These sets of materials distinguish themselves in this study primarily in that they are embedded in different power relations and institutional contexts. Precisely, because of their institutional embeddedness, they are commonly understood to have different weight, where, for instance the legal text is seen as the ‘master category’ of textual order. However, my analytical perspective implies that I do not differentiate between the presumed statuses of the different sets of text. This is to say that all documents are read alongside my ethnographic data in relation to the institutional orders in which they are embedded and regarding the ways in which they are ‘activated’ by actors in the field.

Analytical Strategies

My data-analysis worked to explore the different modalities through which formality is negotiated, the context and conditions on which these negotiations depend and the orders they produce. This process can roughly be described in four steps. It involved transcribing the interviews and detailing my fieldnotes, tracing key themes throughout the different data-sets, coding this material and, finally, framing the threads I followed into a written narrative.

Putting the data on paper involved a ‘sifting and sorting’ (Cloke et al. 2004: 215) of the material that makes it possible to identify themes and to detect patterns that are relevant to the problem under study. ‘Sifting and sorting’ was an on-going process: In attempting to make sense of my study I incrementally began to transcribe the interviews I had already conducted

while I was still in the field. Although I started this task myself, I soon felt I was drowning both in data and work and sought the assistance of a transcription company. Simultaneously, I revisited the fieldnotes that I had written after my site visits, patched them up with additional detail, commented on the data and began to archive the photography I had taken. After my first research phase (July - November 2013), I examined all the data that I had already collected and reframed the focus of the study. In line with the inductive orientation of my research, this interim step served to clarify and adapt the research questions and interview guides to the themes that emerged in the field.

Having collected the bulk of the data, I conducted a thematic and contextual analysis. This so-called first level analysis (a second level analysis, in my count) formed the core of the conceptual labour. It aimed to identify relevant themes that allowed me to categorise the material, and make my different sets of data speak to each other's in useful ways. Practically, this involved reading through the three sets of printed data — textual sources, transcripts and fieldnotes — in order to highlight important topics, to comment on interesting details and to order emerging themes. One particularly important thread of analysis focused, for instance, on the multiple spaces of engagement that allow for moments of negotiation, i.e. the windows of opportunity or minor moments in which people 'edit' the process of governing within frameworks of order. Familiarizing myself with my data allowed me to develop interpretations and to pull out threads of analysis that aimed to abstract from the material and identify the key mechanisms at play (Cloeke et al. 2004: 295). But while focusing on the content of the data, particular regarding the perspectives and practices of the participants, I also toggled back and forth between the data and my initial research questions to develop conceptual categories. Inductively, the theme of negotiability emerged.

A computer assisted analysis in NVivo allowed me to track the traces of the themes I had developed. From these themes, or, say, multiple lists of ideas, I organized a coding scheme (Bazeley 2013: 109) through which I delved more thoroughly into the text. Coding not only involved translating and thereby rethinking the categories that I had previously collected, in

searching through the data I also attempted to tease out the incoherencies, check the reliability of my interpretations, deconstruct meanings and develop further interpretations. As I became more familiar with the detail of the material, new themes and codes evolved. My codes hardly constitute analytical categories. However, clustering the codes I had generated helped me to reflect upon the theoretical significance of the themes that had emerged and to structure the narrative of the thesis. It is crucial to note that this process hardly constitutes an objective or repeatable technique. Rather the codes that I developed are based on my own interests and interpretations.

Finally, writing itself constituted a process of meaning making (Tuck 2013). While shaping my findings into a written account I frequently went back to the ‘raw’ data. Not only to translate the interview quotes, but also to figure out how this new context — my narrative — altered the meaning of what my respondents had said. I translated the parts of the interviews I used in the text of the thesis myself consulting native English speakers when I was unclear about equivalent terms. My translation is verbatim. Only in cases in which the original quotation significantly diminishes the readability of the text did I edit the interviews, but then as little as possible. In the flow of the argument I kept reconsidering the interpretations that shaped the content of my claims.

In framing the study into a written text, it was crucial to revisit an ethical concern with the dissemination of this thesis. I do not intend to overestimate the visibility of this work, but it is necessary to consider the possibility that this study has the potential to destabilise the overall security of the colonies throughout the city. Although, I might not offer relevant surprises to an insider audience because the preservation of the colonies is already an issue of contention, too much attention about the ‘misuse’ of cheap public land might corroborate arguments of value for an agenda of privatization — if the story is framed in a way that is prone to supporting these claims. Being aware of this problem, most gardening associations seek to limit public knowledge about transgressions in the colonies. The abovementioned anecdote about my attempts to recruit participants by advertisement illustrates this well. As

Schwedler (2014: n/p) notes, “the primary goal in our research is ... to accurately report and honestly assess the material we have gathered ... but that typically means pushing up against other versions of that story. Even in seeking to correct a wrong [*sic!*] narrative, ... we may inadvertently reinforce other narratives that trouble us”. However, designing, framing and writing up the study offers possibilities to influence the ways in which material can be put to work. Anticipating this problem allowed me to reflect critically on how my narrative could foster some claims and challenge others. As these reflections guided the process of fieldwork and writing up, I am confident that the story being told in this thesis is not one would endanger the status of the colonies or individuals that have participated in my research.

Conclusion

In this chapter I outlined a methodology that allows me to produce insights into the negotiation of urban order. This methodology relies on Dorothy Smith’s approach to institutional ethnography. It accounts for the construction of order through an exploration of situated practices that I examine in relation to the structuring frameworks in which they are embedded. Designed as a case study, my fieldwork combines multiple methods in order to get at the various standpoints relevant to an understanding of practices of negotiations in order to draw a more differentiated picture of the conundrum of urban governance. In reflecting on the use of my methods, I have argued that the data collected through interviews, observations and textual sources is the result of a relational process in which access to information is dependent upon the researcher and her field. This chapter has been key to making this process transparent.

In reflecting on the choice of my case study, I have also argued that Berlin is a particularly productive place to study the practices on which I wish to focus. The next chapter will delve more thoroughly into the production of multiple formalities throughout a century of allotment gardening and thereby seek to substantiate this claim.

4. FIXITY AND CHANGE

Inert Infrastructures, Shifting Regimes of Governance and the Coexistence of Formalities

In exploring the past regimes of planning and governance as well as the social and spatial development of allotment gardening, this chapter contextualises the case study of this thesis. This contextualisation highlights the changing conditions of informal dwelling as well as the particularity and universality of these processes, in order to pursue two aims.

On the one hand, this chapter shows how past regimes of rule are incorporated into contemporary regulatory projects. More particularly, the history of Berlin's allotment governance illustrates how rationalities of urban ordering continue to linger. Consider, for instance, the era of division in West Berlin. In the decades that followed the Second World War (WW2), Berlin was severely damaged. While for some, temporary accommodation helped to mitigate the vast shortage of housing, others moved into allotment gardens where they lived in allotment huts to await the reconstruction of adequate urban shelter (Urban 2013). Following years of economic prosperity, these stopgaps were soon redundant. By the 1980s, West Berlin was largely rebuilt. Local regulations had banned allotment dwelling since 1951, but in 1983 the introduction of the BKleinG prohibited residing in gardens on a national level. Despite this the living routines of post-war years proved to be persistent. Even though a first generation of occupants who had retained permits eventually died or moved out, they left behind a landscape of small-scale self-built housing, serviced by intact socio-technical infrastructures of administrations, neighbourhood relations, water-pipes and telephone connections in which dwelling was both relatively comfortable and commonly accepted. This trajectory speaks of shifting paradigms of administrative ordering but simultaneously it is characterised

by obduracy, as norms continued to prevail in spite of or parallel to formal planning efforts. As this tension is key to understand the negotiation of formalities, this chapter traces past frameworks of order that continue to impact upon the allotment regulation today.

On the other hand, a closer look at the contextual and historical parameters of my case study in Berlin allows me to account for the local variegations in the development of allotment governance. Of particular importance to understanding today's landscape of order is the division of the city through the split of Germany into the German Democratic Republic (GDR) and the Federal Republic of Germany (FRG) and Berlin's special status as a political enclave that resulted from this process. Although, after the unification of the country, a federal law adjusted the distinct regimes of rule that these states had developed, local differences remain which continue to shape regulatory processes across the city. Thus, a long-term perspective on the transformations of allotment gardens not only confirms Moss' claim that the city is made up of "non-linear, contested and spatially diverse phenomena" (2014: 1434), it also leads to a plethora of stories that speak of different Berlins that are guided by their specific traditions of ordering space. In sum, these foci raise awareness for the co-existence of different formalities in allotment governance.

The chapter follows a chronological structure, into which I weave the concerns I previously outlined. Its first section, 'Foundations', traces the development of Berlin's allotment gardens from their establishment to the city's reunification. These beginnings help me to explain their founding rationalities as well as the changing role of allotments in the city. 'Adaptation and Inertia', the second section of this chapter, recounts the spatial politics of allotment governance after unification and thereby considers the adaptation of the Eastern regulatory system into that of the West, as well as the political, economic and social changes in which these developments were embedded.

Building Infrastructures through Shifting Political Projects

Foundations

The foundation of Berlin's allotment gardens is closely related to the city's history of industrialisation, as this period strongly shaped the rationalities for their establishment.

So-called 'gardens of the poor' [*Armengärten*] existed since 1833 (Kleinlosen & Milchert 1989: 14), but they were merely a marginal phenomenon. The construction of Berlin's ring road in the 1870s led to a broader wave of allotments being established (Landesverband Berlin der Gartenfreunde; *hereafter*: LBdG 2001: 23). This period of rapid industrial development was accompanied by the expansive growth of Berlin's built fabric (Bodenschatz 1987). Names of allotment associations such as '*Steinreich*' [stony grounds], '*Wiesengrund*' [meadow-ground] or '*zum Steingarten*' [to the stony garden] are reminders of the initial cultivation of land in the course of its urbanisation. Between 1971 and 1900 the city grew from 800,000 to 1,900,000 inhabitants (Statistisches Landesamt Berlin 1999: 25-28). For decades Berlin failed to accommodate the influx of rural-urban poor migrants and those who found housing, were often forced to endure noxious living conditions, for instance in the notorious 'Mayers Höfe' — a typical tenement of multiple adjacent blocks separated by narrow courtyards only. These precarious material conditions were worsened by a system of arbitrary profit making, in which landlords rented beds rather than flats — often to multiple occupants. To mitigate the housing shortage, incoming migrants founded shack-cities on Berlin's rural fringes. These so-called '*barrakias*' (shanties) are also referred to as 'cities of allotment huts' [*Laubenstädte*] and are often written into the beginnings of allotment histories. In these early periods, most plots were leased via a central lessor [*Generalpächter*] who distributed parcels of communal land but provided time-limited contracts (LBdG 2001: 18). On the whole, gardeners were 'small people' [*kleine Leute*], factory workers or lower civil servants. Until the turn of the century their numbers grew to 40,000 (*ibid.*) in Berlin only.

The growth of Berlin's allotments is related to three concerns: First, they emerged as a survival strategy because they provided shelter and secured livelihoods (Nilsen 2014: 73). Second, allotments were initiated as a bio-political measure — an attempt to foster healthier living conditions in the midst of the industrial city (*ibid.*: 83). They were designed to toughen up young city-dwellers and to maintain a population fit to support the growing industrial work force. Third, the literature relates the emergence of allotments to the enduring attachment of the gardeners to their former rural lifestyle. As the title of the first official allotment newspaper indicates, the gardeners of the time understood themselves as 'field-citizens' [*Ackerbürger*] (Jensen 2005: 319) — a term referencing both the right to their urban citizenship, i.e. participation in the city as well as a proximity to nature. Other than the overcrowded tenement, the allotments provided homestead and a sense of belonging. These first decades of allotment-history also correspond to the era of German colonialism in Africa (1884 – 1920). To date, the allotments are frequently referred to as colonies and the names of some of the oldest gardens, such as *Buren*, *Transvaal*, *Kamerun* or *Kulis* also speak of this period and, possibly, the unsatisfied travel urge of the gardeners as well as of their patriotism (LBdG 2001: 24). Whilst Stein (2000: 256) argues that the naming of the allotments references spaces of exploitation, the notion of the colony also alludes to a centre — periphery relation. In fact, although allotment-land forms green corridors that weave through the city's core, the story of allotments primarily concerns the periphery of the 'civilized' city, where gardens provided spaces for food extraction and withdrawal from urban life. In sum, these first developments inscribed allotments into the contemporary fabrics of the city.

Consolidations: institutionalising infrastructures

The first decades of the twentieth century fostered the consolidation of allotment culture and a broader political acceptance of the gardeners who soon came to be seen as a movement. From the perspective of the allotment holders, these early developments can be described as a double-edged sword. On the one hand, the increasing acknowledgement of

allotment gardening provided security and opened up a space through which the gardeners could manoeuvre their claims. On the other hand, this security hinged upon their incorporation into political projects of appeasement and social reform.

Already in 1901, the foundation of a Central Allotment Association united multiple organizational strands including the Red Cross, different reform movements, charitable associations, as well as previously unorganized tenants who gardened on communal land. This fusion strengthened the claims of the gardeners and helped them to organize against the despotism of the lessors. In 1919, the newly elected Weimar government passed the first garden statutes, the 'Allotment and Small-lease Regulation' [*Kleingarten und Kleinpachtordnung (KGO)*, *my translation*]. The institutionalisation of this first piece of regulatory infrastructure not only ended the system of the central lessors, as it granted rent caps and protected the allotment holders against unwarranted eviction, it also furthered the gardeners' administrative independence through a civil arbitration procedure (Nilsen 2014: 95). It is useful to point out that this law had its inherent ambiguities, for instance around the definition of what was to count as an allotment (LBdG 2001: 71). It provides, in this sense, the starting point of a learning process in which lawmakers gradually apprehended how to regulate the gardens. Weimar also institutionalised an administrative agency at the district level that was charged with the management of the gardens and can be considered the foundation of today's governance structures. These initial steps towards a consolidation moved the allotments into the city's realm of responsibility and thereby institutionalised numerous rationalities through which the allotments were organised, such as the idea that the plots were to be privately used by one gardener or family only.

I have so far presented the history of allotment gardens through a narrative of political agency and self-help, but the gardens also constitute a site of top-down political intervention. As previously mentioned, from the outset their foundation was justified in moral terms. It was intended, as Nilsen writes, to keep up the spirit of the working class (2014: 83). Throughout their development, allotments not only became a site of social, nutritional and health

imperatives and policies, they were also considered to be a beautifying measure that helped improve urban life through proximity to light and soil (LBdG 2001: 46). In the years of the Great War, allotments moved into the focus of war propaganda. Political discourses pointed to the gardens as a national strategy of food supply (Nilsen 2014: 89). But, following Nilsen, these efforts hardly targeted the productive possibilities of the allotments, as most gardeners lacked the necessary seeds to invest in effective farming (*ibid.*). Rather, as she notes, the obsessive propaganda of the time granted gardeners the feeling that gardening constituted a crucial task as they became enlisted into the war effort (cf. LBdG 2001: 48).

Throughout the war, garden land doubled its size (LBdG 2001: 43, 45). In the twenties, the gardens were also to contribute to the recovery of homecoming soldiers. In 1932, Berlin's third building exhibition [*Bauausstellung*] promoted the gardens as a family political measure. Its program stated that the allotment allowed for the educating of a 'nature-loving race' [*naturverbundes Geschlecht*] in the midst of the city (LBdG 2001: 76). Furthermore, the exhibition recommended the possibilities that the gardens offered to increase the 'spiritual hygiene' [*geisteshygienische Kräfte*] of urbanites. They were to prevent hedonism and excessive alcohol consumption, which was considered harmful to the masses (*ibid.*).

As a working class milieu, allotments also constituted an early target of Nazi-policy. As Urban writes "the practices of gardening fit neatly within the blood and soil ideology that assigned the German peasant tradition a particular significance. Allotments were aptly constructed as promoters of land bound values for the German race and as counterweight to the ethically mixed and, according to Nazi dogma therefore depraved big city" (2013: 230). For Loesdau (2007), the associations and organizational structures that had been established in the Weimar Republic facilitated the replacement of gardening committees through party affiliates [*Gleichschaltung*]. In this way, the influence of the Nazi government on processes through which the dispositions of the gardeners could be shaped was easily secured (Klatsch & Walz 2008: 11). In sum, these developments show that the gardens were incorporated in shifting political projects that attributed different rationalities to allotment gardening.

Pinneberg's entanglements: building material infrastructures through political ambiguities⁴

In his 1932 novel *Little Man, What Now?* Hans Fallada portrays the downfall of a couple in the late Weimer Republic. Fallada's literary account is indicative of the roots of informal dwelling in the allotment gardens, and is useful in considering the ambiguities through which these processes played out and the material infrastructures that they left in the city.

The story starts at the gynaecologist. Pinneberg, the protagonist, has just asked for contraceptives as his precarious employment means that he cannot afford a child. But it turns out that Emma, his girlfriend, is already two months pregnant. Despite their economic uncertainty and lack of family support, the couple decides to get engaged and have the baby. From there, the story chronicles downfall. Pinneberg loses his job without notice and his union is unable to help. In the face of a strained economy, he cannot find alternative employment. Finally, after being forced to live in a series of different places and in the context of a depletion of their last savings the Pinnebergs seek shelter in a hut on an allotment garden.

Fallada's story is set in the Weimar Republic. Berlin was then a city of poverty, haunted by inflation and economic depression. Until 1932, the year in which the story is set, unemployment rates increased to 5.6 million nationwide. Pinneberg's case is thus a paradigmatic one and — what is critical for this chapter — it describes the political ambiguities in which the governance of housing, and more particularly allotment dwelling was embedded.

Already the hardship of the First World War (WW1) as well as of its aftermath had helped to remove the taboo of dwelling in allotment huts (Friedrich 2007: 100). Housing construction had stagnated or declined (LBdG 2001: 43). Berlin had already registered as many as 70,000 house hunters in 1919, but in 1928 this number had risen to 179,000 (*ibid.*: 54). In face of this shortage, Berliners turned to the gardens and thereby initiated a process of 'wild' settlement and disputes with the '*Baupolizei*' [building police] that lasted over decades (Bodenschatz 1987: 233). While this period saw no explicit legalisation of dwelling in allotment huts, its politics

4. Parts of this section have been published in Hilbrandt (2015)

provided incentives. For instance, the dwelling law of 1918 defined certain conditions in which huts could be erected without permission (LBdG 2001: 58). Moreover, the Ministry of People's Welfare [*Ministerium für Volkswohlfahrt*] designed a decree [*Musterwohnlauenverordnung*] that permitted dwelling between 15th of April and the 15th of October (Voll 1983). As this decree conceived of huts as housing supplements that were merely to provide shelter during the summer month, it fostered political ambiguity. In the winter months housing was still not available for those who lived in allotment huts and not only the local districts, but also the police increasingly tolerated the use of the huts for dwelling (Voll 1983: 11). In hindsight this attempt to deal with the influx of people into the allotment gardens created a situation of complicity, if not official incorporation.

In the years of the great depression (1929–1939), when Fallada's story is set, the taboo to dwell in allotment huts was broken even further. In face of ever-rising numbers of unemployed and homeless Berliners, the severely strained Weimar Republic passed emergency decrees that were designed to appease the population. Accordingly, "all measures that helped the spiritual and material relief of the population that was affected by long-term unemployment were to be supported" (LBdG 2001: 61). Amongst these measures was the institution of loans to found further allotments, which would keep the unemployed busy (LBdG 2001: 61). Land reformers established various allotments — officially to foster gardening — but unofficially allotment dwelling continued without rigid sanctions. In 1931, as a municipal official wrote in a contemporary bulletin, "it would be hard to find bureaucracies that would displace him from the huts in face of the current housing shortage. This form of self-help contradicts all legal statutes, but at least it is understandably human" (LBdG 2001: 61, *my translation*). These informal housing processes were accompanied by a consolidation of the material infrastructure of the allotments, including the lightening of alleyways and the founding of nearby schools.

The disaster management of the Second World War (WW2) mirrored these political ambiguities. Although policy fell back onto the allotment as a site of emergency shelter, allotment

dwelling remained insecure. As Urban writes about Berlin in 1939, “allotment dwellers took to darkening their windows at night so that the police wouldn’t notice them” (2013: 222). It was only in 1943 that the Reich passed a decree that foresaw the use of existing allotments for housing (Friedrich 2007: 103). The 1945 ‘guidelines for the erection of allotment huts’ [*Richtlinien für die Errichtung von Wohnlauben*] similarly permitted dwelling therein. These permits were temporary and revocable at any point to inhibit the possibility of wild dwelling (*ibid.*). But following Kleinlosen and Milchert, 60 percent of the allotments were inhabited during the war and provided accommodation for 80,000 homeless Berliners (1989: 48–49).

Similarly after the war, the hut became homestead to migrants and those Berliners who had been bombed out of their flats. For instance, the allotments in Wilhelmsruh, an allotment area in the North of Berlin, experienced an influx of several thousand inhabitants that built a total of 2,953 flats (Voll 1983: 27). During this period, the police even helped self-organized alliances of settlers to protect their harvest against theft. To provide security for the gardens’ old and new inhabitants, Hans Scharoun, the director of the so-called department of building and municipal housing at the time [*Direktor der Abteilung Bau und Wohnungswesen des Magistrats von Berlin*], instituted rules for the construction of inhabitable huts with up to 30 square meters [*Richtlinien für die Errichtung bewohnbarer Lauben*] (Loesdau 2007: 46). Furthermore, these regulations permitted dwelling in allotment huts that had initially not been designated for housing (*ibid.*: 47). The five-year period to which the decree was confined passed without major improvements to the housing situation and the renunciation of Berliner’s from their huts (Friedrich 2007: 103). Figure 4 illustrates an exemplary hut and its occupants in 1952.

These developments not only unveil that much of today’s dwelling infrastructures evolved through administrative ambiguities, but they also demonstrate that allotment dwelling is hardly a new phenomenon. Only sixty years ago it constituted a major form of urban housing.

Allotments in the divided city

In 1948, the split of the Central Allotment Association preceded the separation of the city



Figure 4. Allotment dwelling in 1952 in Berlin.
Source: Landesarchiv

and the division of Germany into the GDR and the BRD, due to a political divide within the association (LBdG 2007: 50). This early division also reflects distinct developments within the allotments on both sides of the soon to be constructed wall. Tracing these developments allows me to show, how different notions of formality evolved on the different sides of the Berlin Wall.

In the GDR, the allotment was seen as a relict and merely tolerated as part of the nutrition policy of the city. In 1959, the East faction of the former Central Allotment Association joined the Association of Gardeners, Settlers and Small Livestock Breeders [*Verband für Kleingärtner, Siedler und Kleintierzüchter*] (VKSK)], an important detail which meant that the allotment gardeners were no longer organised solely around *their* interests, but subsumed in an organisation that centred more on sustenance than on sociability or relaxation. Moreover, the VKSK was guided by a mission to develop political, economic and cultural activities that solidified the foundations of the emerging worker and peasant state, in short, the education of a socialist thinking people (LBdG 2007: 63). The fifties and sixties also changed the posi-

tion of the allotments in the city. On the one hand, gardens were demolished, despite their housing functions, to make space for new constructions as well as the expansive areas that were necessary to secure the border. Many allotment gardeners were evicted, as their plots formed a buffer zone that secured the division of the city until its reunification. Moreover, the allotments to the Eastern side were incorporated in systems of border control. Concessions to use the gardens in close neighbourhood to the Berlin Wall were only granted to party affiliates whom GDR bureaucracies felt sure would not “jump the wall” — often members of the state security service, the so-called Stasi (*interview, 15.04.14; my translation*). Visitors and allotment holders could only enter these allotments with a permit. On the other hand, the allotments increasingly became leisure spaces. With the rise of the prefabricated building technology [*Platten*] in the sixties the housing market relaxed, but the narrowness of the newly emerging flats, the so-called ‘proletarian lock boxes’ [*Proletarierschließfächer, my translation*], as well as the lack of travel opportunities increased the need for leisure spaces in the city. Concurrently, the permissible size of the huts was first raised to 30 square meters in 1985 and to 40 square meters in a later decree (Friedrich 2007: 104).

In the GDR, dwelling in allotments was largely tolerated. The property of the land was public [*volkseigen*], but it was administrated by a housing department [*Wohnungsamt*] responsible for all matters of rent, which included providing dwelling space — a limited good in East Berlin. Thus even if contrary regulations existed, this administration frequently granted allotment holders the possibility to dwell in their allotment huts, not only because they provided housing, but also because the permit limited the numbers of people on their waiting lists (*interview, 18.09.13*).

The situation in the Western part of the city mirrored these developments. Circumscribed by the border with limited recreation areas nearby, after the construction of the Berlin Wall, the allotments rapidly developed into leisure spaces (Loesdau 2007: 53). However, due to the constrained availability of land, it was difficult to get hold of a garden (Kleinlosen & Milchert 1989). Waiting lists also extended, because many colonies fell prey to the construc-

tion activities of the post-war era. Planners not only built on allotment land because of the circumscribed expansion possibilities of the city, following Bodenschatz, the modernisation efforts in the sixties and seventies also constituted an attempt to eradicate the desperate housing situation in the ‘wild’ and ‘unlawful’ allotments (1987: 228). Bodenschatz writes of this period as the ‘second Wilhelminian era’ [zweite *Gründerzeit*] of Berlin, as the expansive construction at the time completely restructured the city’s periphery just as it had in the previous period of turbo-growth at the turn of the nineteenth century (*ibid.*).

The most radical eradication of allotments took place in the course of the construction of a housing area, the Märkisches Viertel, which was completed in 1974. As a result of the post-war housing shortage, this site had been home to the largest self-contained area of allotment dwelling in Berlin, the locality of Wilhelmsruh (Bodenschatz 1987: 232). It was variably called ‘Egg Karton City’ [*Eierkistenstadt*] or ‘Little Moscow’ [*Klein-Moskau*], alluding to the dilapidated construction materials — often debris from bombed housing — and the feared political affiliation of its inhabitants (Urban 2013: 226). Following estimates of 1959, approximately 12,000 people lived in this area of which two thirds dwelled on parcelled land (Bodenschatz 1987: 235). All were to be displaced. As Bodenschatz notes, the construction of Wilhelmsruh reproduced two patterns of reconstruction that Berlin had previously experienced with the development of the tenement building.

On the one hand, the aggressive modernist urban utopias of the time actively suppressed the ‘undesirable’ history of older structures (1987: 232) and turned a 45-year long dwelling-history into oblivion (Urban 2013: 221). On the other hand, the construction of Wilhelmsruh is marked by a pattern that Bodenschatz (1987) refers to as ‘social-authoritarian redevelopment’ [*sozialautoritäre Stadterneuerung*], in which restorations were initiated by hard-handed policing of the poor under the banner of social welfare. While from 1954 the tightening of administrative tolerance went hand in hand with the stigmatization of the population (Urban 2013: 222), the political affiliation of the residents also became a criterion for the redevelopment. Despite the fierce, but unsuccessful contestation of the allotment’s inhabi-

tants, evictions began in 1963 and not only heralded an area of *tabula rasa* reconstruction, but also of resistance in the allotment gardens. Since the seventies, the allotment history of the Western part of the city is also a history of social organization. Numerous citizen initiatives, action committees and demonstrations fought against the public administration and for the maintenance of the city's allotment land. Gröning (2000: 171) even claims that the gardeners forced the government of 1989 to step down, because they were unsatisfied with the coalition's allotment-politics. But even if this period led to the destruction of much of the material fabric, the infrastructures that was built at the time, as well as a broader tolerance for informal dwelling on part of the gardeners, leaves its traces today.

Key to today's relations of governance is the BKleinG that was introduced in 1983 and replaced the 1919 Allotment and Small-lease Regulation. Not unlike earlier regulatory measures, the BKleinG prescribes a particular understanding of how the allotment gardens are to be used and understood. It is, in terms of Santo's metaphor of laws and maps (1987) that was introduced in Chapter 2, a projection of a law-makers' imagination as it represents the gardens through a 'distortion' of the local status quo. In the case of allotment governance, this distortion is based on a conscious decision of the mapmaker, or, say, lawmaker, the so-called 'allotment pope' [*Kleingartenpaps*] Lorenz Mainczyk, who has written most pieces of regulation of allotment gardening since.

It is useful to provide some details of this law. The BKleinG is a piece of legislation that protects the status of the allotments while it also regulates their use. Given the urban relevance and as well as the socio-political value that German planning ascribes to the gardens (SenStadt 2012), the law grants three exceptions to the German Civil Code (BGB). First, it defines the structural and horticultural use of the allotment. More particularly, the BKleinG fixes an area of 30 percent for the cultivation of fruit and vegetables. Given that gardens were used more for their leisure function than for their nutritional benefits at the time, this definition indicates a commitment to preserving the agricultural function of the allotment gardens. In addition, the law prescribes the height of the hedges as well as the size and cen-

tral features of the hut (§5 BKleinG). Second, it fixes conditions of lease. The BKleinG sets a rent-cap that conforms to the land prices of commercial fruit and vegetable gardening (*ibid.*). In addition, the law provides protection against dismissal by institutionalising a regime of liability and compensation. Leases are secured through indefinite contracts, contributing to a long duration of occupancy and a certain degree of inertia. Third, the BKleinG prescribes the institutional architecture of the allotments, on which I elaborate in more depth in Chapter 5. These regulations barely conform to the material and social infrastructure of the gardens in Berlin. Rather they prevail side by side with deviating norms, differently sized huts and altering usage. In sum, through these developments on both sides of the Berlin Wall, the unification of the city confronted administrations with different systems of formalities that co-existed side by side and proved difficult to adapt, as the next section will show.

Adaptation and Inertia: Allotment Governance in a Unified City

Decades after German unification, Berlin is increasingly understood as a city that has gradually been brought in line with broader neoliberal trends (Bader & Bialluch 2009; Eick 2003, 2011). Long assumed to lag behind in the story of globalization, the city has seen many waves of investment and government changes that have attempted to reposition Berlin in the centre of Europe, both economically and geopolitically (Krätke 2001; Häußermann & Kapphan 2013; Cochrane 2006a, b; INURA 2011; Colomb 2012a, b). This section illustrates how the city's transformation from a divided island to a presumably global player in the world economy has crucially shaped the fate of allotment land that is tightly bound to the dominant trends of the past decades. This fate is embedded in a series of legal challenges around the politics of restitution; it is predicated upon the city's entrepreneurial strategies; and it is dependent on Berlin's social policies. Moreover, this section outlines how the social changes that have haunted the city in the wake of this restructuring, such as the increase in poverty and unemployment (Töpfer & Sambale 2007) or the resultant socio-spatial inequalities (Sambale & Veith 1998), mark the conditions in the gardens. Much has been written about the

particularity of the ways in which these global trends have shaped the city in the past 25 years (Cochrane 2001, 2006c, 2013b; Latham 2006; Bader & Scharenberg 2010; Merrill & Jasper 2014). Yet, in the inherited landscape of the city, much of the old formalities continue to shape allotment governance today and add one further dimension to a multifaceted narrative of Berlin's transformations.

Adapting formalities: allotments in a unified city

Above all, the shifting fate of the gardens within a unified Berlin has to be related to the legal and administrative changes that accompanied the inclusion of East Berlin into the political system of the BRD (see Rada 2000). This 'unification' — in fact, a takeover of which the West predominantly dictated the conditions — implied the rapid restructuring of, amongst other things, East Berlin's economy, its system of property relations as well as its administrative infrastructure. Thereby it helpfully illustrates how different understandings of formality collide, become incorporated, but continue to leave their traces.

Following the fall of the Berlin Wall, the unification treaty [*Einigungsvertrag* (EinigV)] guided the inclusion of the GDR into federal territory. Based on this agreement, the freshly unified republic created a number of legal tools that were to lead the transition from the Eastern system into a nationwide legislation. In the allotment gardens these broader changes played out in multiple ways. First, they involved the adaptation of the outdated state architecture, including its legal system, planning rules, administrative structures and personnel and were accompanied by a plethora of social changes that emerged from these transformations. These adjustments required the bureaucratic apparatus responsible for the governance of the allotment gardens — amongst them several of my interviewees — to adapt to new rules and roles (e.g. *interview 25.04.14*; *interview 09.04.14*). This institutional realignment also affected the previously separated allotment associations that were 'united', which is to say that the VKSK was incorporated into West Berlin's association. This unified social institution, the

previously mentioned LBdG, is today responsible for 75,000 Berliner plots that are organised through 18 district administrations throughout the city. However, as the empirical chapters of this thesis show, this adaptation did not impede a continuation of the routines, norms and habits that had guided the work throughout the forty years of division.

Second for the gardens, Germany's unification required that the allotments in the former GDR had to be integrated into the legal system of the BRD, including its property relations, which necessitated their adaptation into the BKleinG — a process that was not straightforward. Particularly existing rules about permanent dwelling and the inventory of huts that legally exceeded 24 square meters made numerous exceptions necessary that remain in force to date (§20 BKleinG). Moreover, land and property that had been owned or built before 1948 were to be returned to the old owners or their heirs who were considered the 'rightful' proprietor (Shaw 2005: 157). Furthermore, formerly communal land was to be privatised (*ibid.*) through the Property Law Validating Statute [*SachenRechtsbereinigungsgesetz*, hereafter: *SachenRBerG*]. The *SachenRBerG* was issued as part of a far-reaching process of 'restoration', through which the two systems of land and property ownership were to be unified. In other words, this law that worked for 2.5 decades side by side with the BKleinG adapted, as Schmidt-Räntsch points out, "the material legal positions that were developed under socialist signs to the demands of a market economy" (2005: 49, *my translation*). More particularly, the *SachenRBerG* addresses the detachment of the ownership of a building from that of the property. As previously noted, in the GDR, private ownership of land was of subordinate importance, because the land was owned by the public [*Volkseigentum*]. Most lease contracts of the allotments were permanent and non-terminable. Consequently, gardeners could build on public land without the danger that their conditions of lease would change. The *SachenRBerG* was to adapt these conditions to the German Civil Code [*Bundesgesetzbuch (BGB)*], which foresees that both the building and the property are jointly owned by one legal entity. It did so by either granting the current users the acquisition of the land for half of its estimated value, or it permitted the lessee to sign a 99 year leasehold contract for half of the common interest rate allowing the lessee to pay off the loan in a piecemeal way.

The legislator's reasoning was twofold. First, it presumed that those who had built on the land earned the right to purchase the property and because they were likely to have nurtured the grounds and invested in it for decades, the price should be significantly reduced (Matthiesen 2005). Secondly, the SachenRBerG was to grant people protection given the unsettling experience of uncertainty that governed the conjuncture at the time (*ibid.*). Interestingly, the law was underpinned by the so-called 'principle of subsequent subscription' [*Nachzeichnungsprinzip*]. Accordingly, it included those cases in which investments were made that were 'factually' and 'materially' illegal, but enjoyed toleration, legitimacy or sometimes protection by governmental authorities of the GDR. When the law ran out in 2012, it created geographies of varying standards. Approximately 750 of the 3400 plots that had been permanently inhabited had been sold or leased on this date (Kleingartenentwicklungsplan (KEP) 2004: 11). Thus multiple colonies are today partly owned by the allotment holders themselves. In sum, the law has created an intricate legal conjuncture that adds complexity to contemporary ideas of formality.

Third, the elimination of existing structures was accompanied by a re-evaluation of the everyday culture of the East that touched all walks of life and implied, for instance, the belittlement [*Ostalgie*] or devaluation of GDR traditions. The demolition of the Palace of the Republic, the seat of the GDR parliament [*Palast der Republik*] is a case in point (cf. Rada 2000). In the colonies this not only implied, a rethinking of previous categories — for instance, bungalows were renamed as allotment huts — but also a reconsideration of the social relations that had guided internal regulations. I will return to this point in more depth in Chapter 5.

Planning the capital: urban development and allotment politics in post-wall Berlin⁵

The rapid restructuring of the city after the fall of the Berlin Wall, occurred alongside an

5. Parts of this section have been published in Hilbrandt (forthcoming).

alteration of planning norms and investment paradigms. These changes, the resulting conditions of housing and their socio-spatial effects have to be considered to approximate an understanding of allotment governance today.

In 1991, Berlin presented the first land development plan [*Flächennutzungsplan (FNP)*] of the united city — an extension of the development plan of its former West. Following Bernt et al. the plan was the result of a ‘gold rush mentality’ (2013: 23) that was marked by high and fundamentally misconceived expectations of the city’s future. With the move of the German parliament, it anticipated Berlin’s rapid population growth, as well as the city’s transformation into a global and economic hub. To realize these expectations, the government fuelled planning through the intensive deregulation of the construction market as well as the institution of tax reliefs or dirt-cheap loans that worked to foster real estate speculation (Shaw 2005: 157; Bernt et al. 2013: 67). In this planning rush, the fate of the city’s allotment land was bound to a political trade-off between the presumed necessity for new housing stock and a political commitment to preserve the gardens. When in 1994 the plan came into effect, after years of struggle, it firstly recorded allotments within the FNP and thereby secured approximately 85 percent of the allotment land (LBdG 2001: 282). Of course, from the perspective of the gardeners, 15 percent of this land was from this date no longer secured (*ibid.*). A first ‘Allotment Garden Development Plan’ followed in 2004 [*Kleingartenentwicklungsplan (KEP)*] and allocated distinct levels of security to the individual colonies.

The planning hype of the nineties stands in sharp contrast to the huge tasks the city was faced with, namely to countervail, on the one hand, the end of the German support payments that West Berlin had received and, on the other hand, the collapse of the manufacturing industry and a related decline in job opportunities (Krätke 2004: 519). Until the end of the decade unemployment rates increased and the foreseen growth never manifested (*ibid.*: 512). As a result, Berlin found itself in a debt crisis that led politicians to make far-reaching decisions (Moss 2014: 1443). The coalition of Christian and Social Democrats (CDU and SPD) sold off major parts of the city’s holdings, including its communal housing, prime

pieces of real estate as well as parts of its infrastructure and has since increasingly relied on private contractors. This fatal turn in politics also threatened Berlin's traditional politics of 'careful urban renewal' [*Behutsame Stadterneuerung*] — a set of political paradigms that had been institutionalised to prevent the demolition of building stock and reinforce the inclusion of citizens into planning decisions (Holm 2007; Bernt 2012: 10). The paradigm of 'careful urban renewal' was officially integrated in planning policies, but when applied after the fall of the Berlin Wall, in a climate of reduced subsidies and heightened privatization, the modernization of housing stock through private developers that was publically subsidized through tax benefits, quickly raised rents (Bernt 2012: 11).

Gardeners describe this period in the former East of the city as a period of anarchism (*interview, 18.06.14*). In the face of all-embracing confusion about the legal situation, many allotment holders speak of their bustling construction activities, which Loesdau (2007: 58) relates to their broader access to building material. Certainly, in a time of legal voids the regulation of illegal expansions remains difficult to enforce. At the same time the period was characterised by high vacancy rates in both parts of the city. In the former East, allotment holders used the new freedom to travel and at times gave up their plots. In the West, the reunification of the city firstly allowed for its suburbanisation (Marquardt et al. 2013: 1547). In this part of the city, Berliners regained recreational possibilities beyond the Berlin Wall and, in part, surrendered from their plots.

Since the millennium new twists mark these trends. To start, Berlin's population is finally growing, particularly because of foreign immigration (Amt für Statistik 2015: n/p). Furthermore, the city's creative industries — its only growing market — are taken up by urban marketing strategies, which promote Berlin as the new 'start-up capital' (Lange 2011; cf. McKinsey 2010). In addition, the 'new' Berlin has triggered a boom of easyJet tourism, which has aggravated the situation in the housing market for lower income tenants, as central flats are frequently turned into tourist apartments (Novy 2013).

In the allotments these trends have played out in two ways. On the one hand, some of the

colonies that are located on allotment land that was sold after unification have experienced increasing levels of eviction. Various compulsory purchase orders were issued in the last decade, predominantly for the construction of the A100, the prolongation of Berlin's ring road. The gardeners have 'lost' ninety allotments since unification (Tschacher 2009: n/d). On the other hand, these developments have met fierce resistance. For the first time in decades the city is experiencing the return of social movements. For instance, Scharenberg and Bader note that Berlin's arguably "most successful urban social movement of the last decade" (2009: 327) has managed to (partially) alter the large-scale development project 'Media Spree'. Therefore the authors contend that the contemporary literature on New Urban Policy has thoroughly underestimated the inhabitants' resistant capacities. Similarly, the gardeners continue to contest the rededication of allotment land. In 2010 and 2014, the Senate updated the KEP and thereby secured approximately 83 percent of the allotments permanently, and a further eight percent temporarily until 2017 or 2020 (SenStadt n/d a). Notably, this protection status is only valid for the approximately two thirds of all colonies that are located on communal land.

Socio-spatial changes

To understanding the governance of allotments today it is crucial to consider the geography of the changes I have previously described. From a territorial point of view, the post-unification development of allotments is embedded in a reordering of the socio-spatial geography of the city, which involved, as Bernt et al. write, a "complete renegotiation of the relationship between the centre and the periphery" (2013: 14). Berlin's approximately 79,000 plots on 3,018 hectares land — a total of three percent of the municipal surface area (SenStadt 2012) — are mostly located in what Berliners consider to be the periphery, the 'terra incognita' beyond the ring road (see Figure 5).

Today, this area is difficult to capture. Hesse (2010: 69) describes it as a blend of urban cores, an archipelago of distinct lifestyles, small housing developments, large estates and industrial parks that is characterised by a juxtaposition of prosperity and decline, often in direct neigh-

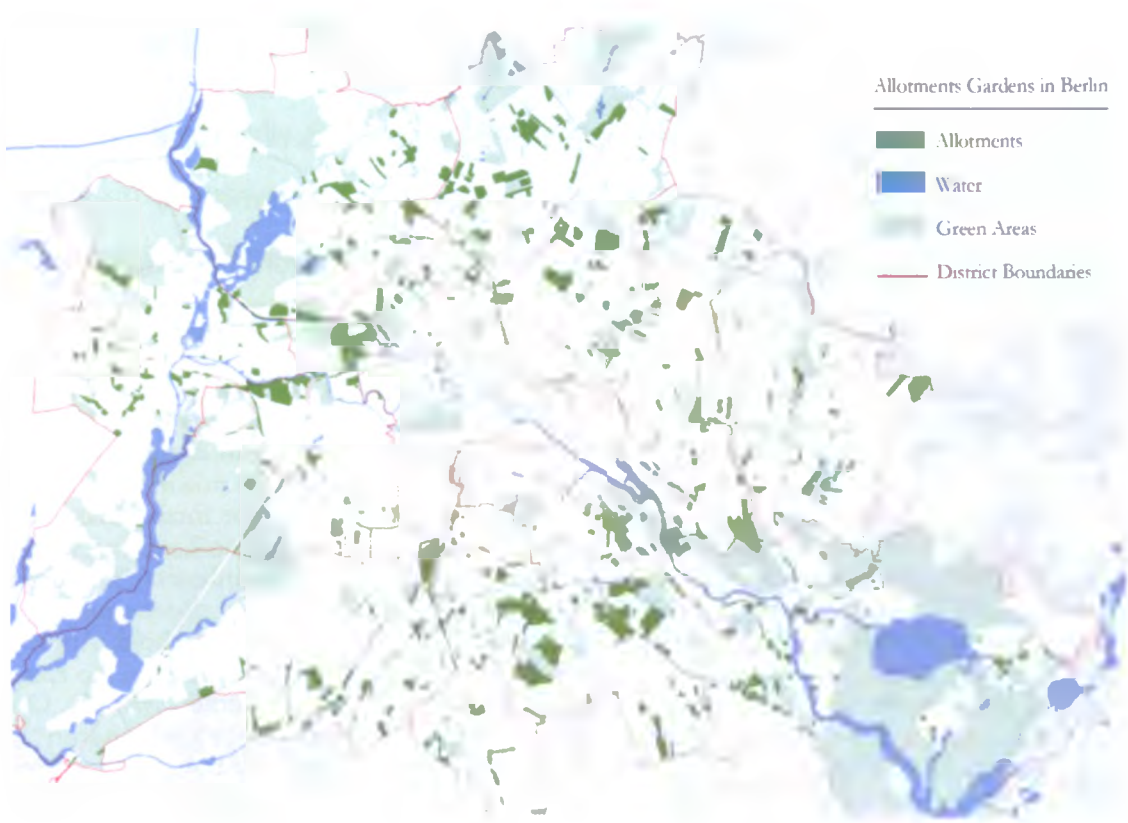


Figure 5. Diagrammatic Map of Berlin's Allotment gardens. Source: SenStadt 2012

bourhood. As a result of the city's changing investment paradigms, rising rents and stagnating job market, Berlin's contemporary socio-spatial divide is today as pronounced as it was in the nineties (Bernt et al. 2013: 68). As Mayer put it in 2006, "twelve years after the fall of the Wall, the city indeed is no longer divided by a "death strip", new more and less visible boundary lines have come to traverse the city, establishing socio-spatial patterns of polarization not known before" ([2006] 2013: 95). These trends are multifaceted: On the one hand, Berlin is marked by the outmigration of higher income groups as well as an influx of young professionals into the city's core (Marquadt et al. 2013: 1547) — a development which has led to an insular expansion of wealth throughout the city. On the other hand, these 'islands of renewal' are set 'in seas of decay' (Berry cited in Marquardt et al. 2013: 1542; cf. Mayer 2009). Particularly due to the erosion of jobs and economies, Kratke and Borst frame it as... 'the capital of cleaning crews and security sheriffs' (2000: 44). More precisely, high levels of unemployment (11,7 percent) and low levels of income mark these 'seas of decay' (Amt für Statistik Berlin 2013: n/p). Rada even describes Berlin as the centre of an 'Eastern European

ant trade' — a survival economy that is built on these new social divides (2013: 74).

It is useful to juxtapose these developments with the social trends in the allotment colonies. A study of German allotment gardens conducted by the Federal Office for Building and Regional Planning (BBR) in 2008 provides useful statistical data on the characteristics of allotment gardeners (Buhtz et al. 2008). Of the approximately 2.5 million people who profit from an allotment plot in Germany (*ibid.*: 15), 33 percent are out of work (*ibid.*: 5). 8 percent of those surveyed are jobseekers which — in relation to all gardeners in an employable age — amounts to a national average of 17 percent, and, in the states of the former East, to 26 percent (*ibid.*). According to the same study, the biggest group of all gardeners (55 percent) has a monthly income between €800 (£580) and €1,800 (£1,300) per household. Approximately ten percent of the gardeners live off less than €800 per household (*ibid.*: 69). Only seven percent of all gardeners have a migration background, although the statistical trend describes an increase of gardeners in this 'group' (*ibid.*: 68).

The average age of all German allotment holders is 60 (*ibid.*: 66). More than half of the allotment holders are pensioners, although the trend is showing that allotments are awaiting a generational change (*ibid.*: 66). While the advanced age of an estimated eight percent of the gardeners will force them to give up gardening soon, the ratio of households with children is increasing (*ibid.*: 5). This trend echoes a phenomenon I frequently encountered in Berlin. Young, particularly middle class families often enjoy a privileged entry into allotment gardening, because most colonies explicitly favour families when leasing the plots. Moreover, the average transfer fee has increased considerably so that a plot has become unaffordable for some. Although the national average of this fee is estimated by Buhtz et al. as €4,000 (£2,953) (2008: 6), the prices I encountered in Berlin are significantly higher and raise questions about the affordability of the gardens. At the same time, the image of the allotment is changing. A recent feature in the city magazine *Zitty*, the event-journal of Berlin, even celebrated the gardens as a 'new Eden' for young Berliners (Brakebusch 2014 n/p). Certainly, allotments are no longer the gardens of the poor, as they were founded to be over a century ago.

Conclusion⁶

The narrative of Berlin that this chapter has provided has accounted for enduring traces from past political projects and differences in governance across the city. Thereby, it has aimed to explore the ways in which orders have been locally produced in the city by tracing two themes.

The first is concerned with the temporalities of urban transformation. In a recent article, Jennifer Robinson suggests reconsidering ‘the new’ as a basis for urban theorisation (2013). Urban studies, Robinson argues, are too often driven by a quest for novel trends set only by a few supposedly paradigmatic global cities (2013: 659). To counter these narratives, she suggests opening up space for the “cotemporality of past, present and future”, and to disrupt a “progressive or linear historicism, in which one urban outcome or one temporality (the new) can do analytical service for the urban in general” (*ibid.*: 666). This chapter has aimed to explore these past temporalities by following the developments of allotments and collecting the traces they have left in the contemporary city. Certainly, this chapter has shown much dynamism and transformation. But despite significant changes, I have illustrated some of the ways in which past orders leave their legacies that continue to have considerable influence in the allotments today. I have particularly pointed to the enduring infrastructures, obdurate rationalities and past materialities of governing. Consider, for instance, the building stock. The allotment huts, ‘mutable immobilities’, in the terms of Guggenheim (2010) were built and permitted in times of severe housing crises, but today they present impediments for rapid change. In sum, my attention to the trajectories has aimed for a complex understanding of both, the dependencies as well as the openings that shape the regulation of order in the allotments today.

The second theme that this chapter has traced concerns the local variegations in the development of allotment governance. In thinking through the histories that have shaped formalities across space, such as the division of the city, I have highlighted different formal orders that

6. Parts of this section have been published in Hilbrandt (2015: 114).

co-exist throughout the contemporary geography of the city. These variegations not only make it questionable if Berlin is a case of the North, the West or the East, but also show that cities produce their own 'off the map' absences: the peripheries of investment and attention.

If this chapter has followed larger political shifts, the next chapter turns to small-scale change that is evoked through the everyday negotiations of the gardens today.

5. CONSTELLATIONS OF GOVERNING

Sharing Responsibilities, Negotiating Consent

Early in the summer of my first fieldwork year, I met a young man in one of Berlin's Vietnamese eateries. I have called him Ron. Ron was in his mid-twenties. He leaned over the table I was sharing with my brother to comment on our on-going conversation. I had just returned from an allotment in the district, a key site of my research project, and was recounting my hunt for a plot. I had planned to lease an allotment and conduct participant observation of the local regulatory practices, but the huts that were currently free to lease were full of asbestos or came with a long list of requirements that had to be met. Ron told me that he had encountered similar problems, but he had found a plot this summer and installed a new, insulated hut to permanently inhabit the site. A rent for a normal apartment, he reasoned, would no longer allow him to lay money aside to save for his pension. 'But this was illegal', I objected. 'Yes and no', he replied and explained that everyone did it and as long as one made friends with the neighbours, it was impossible to prove that he was dwelling in the hut and currently his best option to avoid living at his mum's (*fieldnotes*, 13.05.13).

Ron's form of livelihood is not what one has been taught to expect in a 'developed' Northern city. In Berlin's allotment gardens, his strategy — an unlawful form of poverty survival — remains uncommon. But his and similar narratives of transgression provide insights into the complex constitution of regulatory regimes and through this discussion allow me to consider the construction of formality in everyday practices. In this chapter, the governing constellations — the actors, their networks and the power relations through which rules are negotiated in and beyond the state — constitute the starting point from which I discuss these practices.

In providing a theoretical basis for this debate, Chapter 2 established an approach to the state, as perpetually produced and reproduced in the everyday practices of actors in and beyond institutions. In particular, I argued that the state is a social concept that lacks coherence, strategic rationality and solid boundaries. Charles Tilly provides an illustrative version of this perspective in which regulation is relationally negotiated rather than imposed in a top-down way. In a short paper (2009) on the everyday operations of states, he proposes the notion of ‘grudging consent’ to explore how rulers campaign for the approval of their subordinates. “Democracy”, he writes, “thrives on bargaining compliance rather than on either passive acceptance or uncompromising resistance” (2009: 1). For Tilly, sovereignty is thus acquired and maintained through the grudging consent of the ruled, consent that “manages the tensions [between the rulers and the ruled] and binds the two sides together” (2009: 7). Such agreement, he concludes, is produced through continuous negotiations.

Beyond the value of Tilly’s conclusions for an understanding of *statal* engagement, a perspective on the everyday enactment of rules points to the ways in which *non-state actors* negotiate the interventions of the bureaucracy. In expanding his account, this section explores consent seeking in processes of governing as bilateral: not only the ruled, but also the responsible agents of states need to consent to a number of compromises. Accordingly, I describe the production of social and spatial order as a cooperative effort that is shaped by all concerned and leads, at best, to a joint although possibly contested arrangement. If formality is, as I argued in Chapter 2, the effect of such regulatory processes, and regulation is, as I seek to show, not solely produced in a confined sphere of the state, then formality itself needs to be seen as the contested product of the engagement of a broader constellation of actors. A more relational view of the state which foregrounds a more practice-centred understanding of the making of order, leads, in other words, to a more dialogical reading of formality, as shifting, negotiated, and provisionally arranged through the power relations and networks of governing constellations. To run ahead of myself and hint at some of the conclusions of this thesis, such an understanding of formality may help to question a view of informality as delineated singlehandedly by state actors who draw boundaries between legitimate and illegit-

imate forms of rule. To begin with, this chapter seeks to analyse regulatory regimes through the mundane practices of governing in play across a wider range of actors, and through this it aims for an understanding of formality as produced through perpetual negotiation across a network of actors in and beyond the state.

The cooperative nature of regulatory enforcement can be mapped out with reference to a common concern in gardening-governance around the permanent inhabitation of huts or their occupation over the summer. While the former has come to be known as *Schwarzwohnen* ['black' (or unlawful) dwelling] and refers more broadly to all illegal dwelling arrangements in Berlin's allotment gardens, the latter is commonly termed *Sommerwohnen* [summer-dwelling] and indicates that such practices are confined to the summer-month. By way of introduction it is useful to reflect the socio-legal nature of both phenomena. In addition to 1,145 gardeners that hold dwelling-permits (SenStadt 2015 n/p), an unknown number of Berliners permanently reside particularly in those colonies that have functioning infrastructures, including their own electricity connection and water pumps. *Schwarzwohnen* remains the exception, although my research has taught me to expect at least one permanent dweller in each colony and higher numbers in the periphery of the city. Conversely, *Sommerwohnen* is a rather frequent practice, which does not merely imply that people inhabit their huts during vacations or when they routinely spend the weekend. Berlin's administration — as I was repeatedly told — welcomes such use. Gardeners talk about *Sommerwohnen* when people move 'out' into the colonies in early spring and return 'back' into the city in late autumn. For some, these moves involve subletting their apartments during these periods. Others frequent their flats, although they spent the majority of their nights in their huts. In the GDR, *Sommerwohnen* was considered a common practice and "totally legal" as an interviewee reported (*interview*, 19.09.13, *my translation*).

Yet, today, both residential practices touch a legal borderline: While more recent amendments to the BKleinG permit occasionally spending the night, following contemporary administrative regulations "the use of the leasehold property for allotment gardening excludes

any commercial or residential purpose” (§4 Land Berlin 2009). Why do administrations not want their citizens to live in their gardens? “The hut”, responded a city official in line with other interviewees, “is not to encourage overnight-stays, because a development towards a more permanent inhabitation of the gardens is expected and feared” (*interview, 19.09.13, my translation*). The low costs of dwelling — illegal occupants only pay a lease of €0.36 (0.26£) per square meter per year and additional running cost for services and public charges (e.g. public cleaning service) — certainly justify this fear. But as a matter of planning-principle, administrations considered allotment gardens as recreational and ecological spaces and aim to maintain this function. In other words, the state’s paid representatives anticipate and seek to avoid the ‘urbanisation’ and consequential reduction of the gardens, and work to hinder this development by circumscribing their use.

These administrative concerns prove helpful in exploring the cooperative nature of governance. To do this, the following four sections explore the rationalities and remits of four actor groups, introduced in Chapter 3, Tracing Negotiations, to better understand how they collaborate in processes of regulation. These sections trace political play within these constellations of governing, in which a range of accepted orders, that one might designate as formalities, emerge through four modalities of negotiation: The first starts from the perspective of the bureaucracy and explores pragmatism as a key feature of governance. In considering the role of the District Administration of Allotment Gardeners, the second section explores the ways in which these actors enact regulation by copying the pragmatism of the bureaucracy and adapting to their non-interference. Section three traces the ways in which the responsible gardeners in the colonies widen their room for manoeuvre in widening their realm of responsibility. The fourth examines the perspective of the allotment holders and considers their internal social pressure as a crucial variable in governance. In addition, a final section relates these modalities of governing to local planning politics and the current economic conditions in which they are set. In sum, this chapter illustrates that order is not merely established through the allotment bureaucracy, but that bureaucracies and gardeners join hands in manoeuvring across the contested terrain of enacting regulations and producing formality.

Beyond the Books Rules Pragmatism

My approach to understanding the constellations of governing in which formalities are negotiated starts from the perspective of the city's bureaucracy at the level of the district. Bureaucracies have long been described as the holder of centralised power that is embedded in the institutional hierarchies of which they form a part (Weber 1884 [1921]: 125). This view of the state implies a model of governance, in which bureaucrats are characterised by professionalism with limited room for discretion and act as technicians to institutionalise order top-down. In the current political conjuncture of austerity measures and welfare adjustments, debates on urban bureaucracies have undergone a considerable shift. A good part of the research that is broadly concerned with these themes has focused on the larger structural transformations within which bureaucracies are pushing for these measures (Clarke & Newman 1997; Peck 2012). Moreover, interest has focused on the ways in which discourses about devolution, partnership and good governance, work to legitimate policies that are fostering towards private corporate actors, whilst bureaucracies act at large in unaccountable and illegitimate ways that undermine democratic processes (Donald et al. 2014). Related themes such as state speculation (Bear 2011), informal replacements of former welfare functions (Fairbanks 2011) and the backroom deals and other illegitimate manoeuvres of urban governments (Demirtas-Milz 2013) find resonance in contemporary work on informality. In this body of research, economic restructuring is said to have turned 'neutral' bureaucracies into strategically acting institutions that are complicit with private corporate interest. The devastating effects of such urban policies are certainly ubiquitous and also well addressed (Koch 2011; Florack & Grunden 2011).

In this section, I would like to argue that an analysis of these governing practices requires a plausible account of the constraints and possibilities through which regulators implement, share or coordinate governing responsibilities. Complicating an analysis of the modalities of governing and the constellations through which regulations take effect in everyday practices allows me to weigh responsibilities differently. This section points to pragmatism, rather than to strategic rationalities. To do that it outlines the engagement of the bureaucrats in three

steps. I consider first, the room for discretion in governing, second, the ways in which this room is confined through the limited capacities of the responsible agencies and, third, the pragmatism that evolves from these restraints and leads to greater tolerance and the sharing of governmental responsibilities.

To return to the present case, it is useful to start this endeavour by explicating the organization of allotment governance. For this, it is necessary to know that allotment land is predominantly owned by the city, but rented out at the district level. Allotment colonies are governed by their own administration, the district association of allotment gardeners [*Bezirksverband der Kleingärtner*] that takes over the management of *all* compounds in one district, commonly sublets *single* colonies, which, in turn, sublet *individual* plots (see Figure 6).

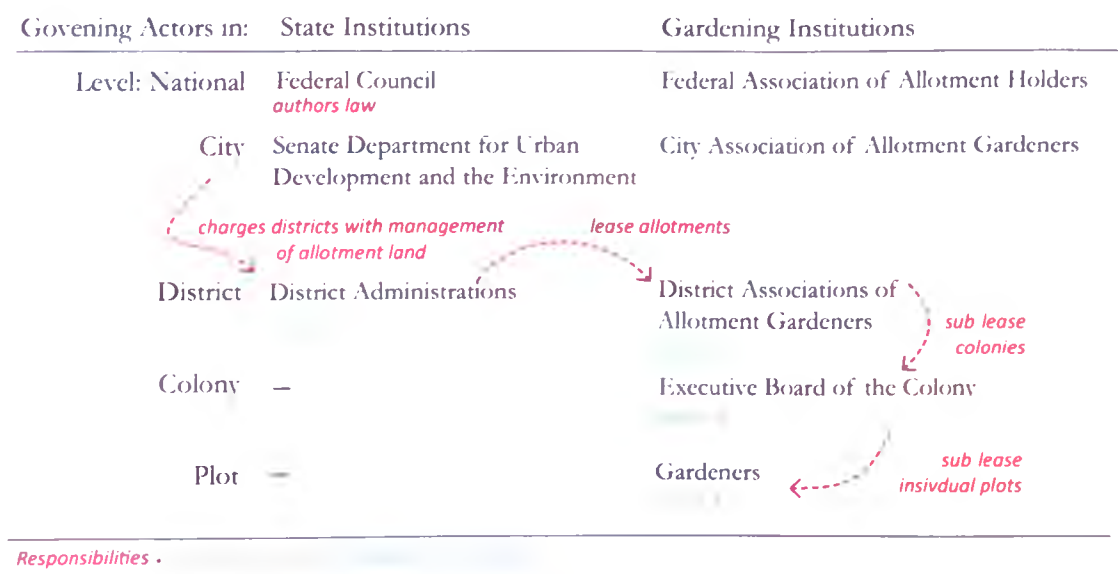


Figure 6. Organization chart of governing actors and institutions. Source: author

At the district level, this system is supervised by a small number of allotment garden administrators, who represent the landowner and oversee the work of the gardening associations. Given that the management of gardening land is not a small task these capacities hardly suffice. Moreover, the city of Berlin finances only one position in the city-level administration, SenStadt, that looks after the approximately 74,000 plots. Through this organizational set-up,

the governance of allotment dwelling faces multiple hurdles. Let me start by outlining these restraints and the pragmatism to which it leads, by pointing to the room for discretion in the engagement of bureaucrats and the resulting differences in regulatory practices.

Each allotment administrator I met, was broadly in the know about the offences of allotment holders (*'we are always aware'*; *interview, 19.09.13, my translations*). Some denied more detailed knowledge — although it appears to be quite simple to trace the activities of the dwellers. As Mr Werner, a district bureaucrat notes, "... when you really take the trouble to go there in the deepest winter in the morning at six or seven you will see where there's light and you will see where the chimney is smoking and how many cars there are with frozen windows" (*interview, 07.08.13, my translation*). In fact, as he notes, administrators could really catch informal dwelling practices, if only they were ready to acknowledge what they already knew. While officials might not be aware of the length of people's residency or the specifics of each plot but, more broadly, it is safe to say that allotment dwelling is a well-known offence.

For Valverde the "how" of governance is a matter of capacities and rationalities (2009: 144) and, in line with her assumption, different degrees of certainty about allotment dwelling pertain as both the individual engagement and personal attitudes of bureaucrats vary. In the regulation of allotment gardens, rationalities play out in different ways. Take, for instance, the statement of Mr Becker, a former allotment garden administrator with a rather relaxed attitude: "If there wasn't something really at sixes and sevens", he noted in an interview "we didn't immediately demonstrate the power of the state ... well you see it, then you... mum, mum ... we are somewhat human too" (*interview, 23.04.14, my translation*). Certainly, this statement speaks for a strong use of discretionary space and a generous understanding of regulation. When asked about her control of illegal housing extensions in the allotments in her district, Mrs Richter, who occupies a similar position in the allotment bureaucracy reasoned:

I would say I tread on the toes of the district association of allotment gardeners. I really control it, I do! I'm really rigorous in this issue. From the perspective of the district association of allotment gardeners presumably a bit obtrusive, but I stick to it ... when I see something like that, I go on their nerves ...

H.H.: So you walk through the compounds and check?

Mrs Richter: Of course! Yes, ... yes! I would say those who are within a walking distance, the cards are stacked against them, because when I go [to work] by car and I see something, then ... I would just walk over — say on an afternoon and have a look at what's going on. I take a couple of pictures ... and I'm back in ten, fifteen minutes. And the other compounds, there I simply combine it [regulation-walks] with instances when there is construction work, where I would just say, ... I'll randomly say, 'I'll have a look on site'. Or, I'll check online first, where you can see on the aerial photographs that things may look a bit strange and you'd like to see it on site. And then I take the car and drive 'out' and have a look (*interview, 09.04.14, my translation*).

Mrs Richter offers a much more rigid account of regulation, which describes her own engagement as rigorous, detailed, and challenging. In fact, she builds different occasions for regulation into the routine of her work, such as site visits or internet inspections. Much to the annoyance of some gardeners, she also follows up on her presumptions. Although from her point of view, her commitment to fulfil her institutional role entirely justifies these measures, gardeners consider her means as obtrusive, as they extend the expected realm of intervention. Unlike Mr Becker, Mrs Richter is not ready to consent too easily to an overstepping of rules. This comparison of regulatory efforts could easily be mapped onto some of the material differences in the allotments across the city.

Second, to understand the pragmatism that guides governance it is necessary to point out that shortage of capacity trumps rationality. Despite the personal engagement of some of the allotment garden administrators, the more or less permanent use of a hut as a dwelling is almost impossible to prove — even in those colonies, in which large numbers of gardeners reside in their huts. A thorough regulation would imply monitoring a couple of thousands plots per employee. In practice, regulation works, as Mr Becker adds, by ways of stumbling across problems, more in an accidental fashion than a systematic way. His contention reflects the testimony of all of my interviewees in similar tiers of the bureaucracy: The tight budgets of local bureaucracies do not suffice to allow for a rigid enforcement of rules. Districts can neither fund more than two positions that handle the management of allotment gardens, nor

can they afford to sue their tenants. Here, the city's accumulation of debt and its endeavour to consolidate its budgets impinges on the regulation of allotments. These restraints turn bureaucrats into confidants of legal transgressions within their jurisdictions. Is this complicity at play?

Third, these constraints lead to pragmatism and cooperation. Allotment garden administrators pass on matters of regulation to the district association of allotment gardeners, among other reasons, because they do not have the capacity to take care of these issues themselves. To regulate the problems that this association does not resolve, the city's allotment bureaucracy has a final measure at hand, which is also a final obstacle. The organisational setup that I previously described implies that local bureaucracies neither have a contractual relationship with the individual colonies nor with the gardeners of each plot. As contractual partners of the district association, the ultimate means to enforce regulations is thus to terminate the lease-contract with this association and thereby of *all* plots in their district. However, in everyday practices, this is hardly tenable, as no other association could handle the task, as Mrs Braun, a responsible actor in a district bureaucracy tells me at length.

Honestly, it's difficult, really difficult. Of course, we could terminate the contract with the district association of allotment gardeners, or we could sue, but that's all theory. Generally, the district association would themselves be interested in getting things in order, but they often can't, because ... whatever, because someone obstructs things, because something is in their way. I cannot really answer this 100 percent. We always try, but sometimes things come to nothing. Other issues are decided in court, but a real handle, contractually yes, but factually, we don't really have that (*interview, 19.08.13, my translation*).

The district association of allotment gardeners is an organisation that has grown over a century and is today a cultural institution. As mentioned in Chapter 3, its development is based on the formation of a powerful urban movement that was further strengthened through a period of struggles around the privatization of land in the sixties and seventies. Given this tradition and know-how this organization would be difficult to replace. Despite the many efforts mentioned by Mrs Braun, regulation in practice is thus working with the factual, which, in distinction to the contractual, is that which is doable.

The how of governance, may be a matter of rationality and capacity, but in the present case, given the shortage of capacity, it is mostly one of pragmatism. It is an arrangement in which officers are forced to turn a blind eye or find ways to juggle documents, plans, laws and the like with the daily restrictions of their jobs. Thereby, they accommodate informal dwelling. Moreover, Mrs Braun's contention describes a deal which is at times predicated on cooperation, while at other times it is based on mutual dependency. Thus, in line with the politics of devolution that the new public management literature describes, bureaucracies are certainly not the only actors with weight. Regulation lies, at least in part, beyond the realm of the state, in a broader constellation of governing actors. But in distinction to much of this literature, this section has highlighted that rather than using discretionary spaces for the pursuit of intentional strategies the bureaucracy is not only confined in its possibilities to enforce rules, it is also required to rely on their contractual partners on site. This claim will become more concrete when examining the regulatory practices of the gardening association at the district level, to which this chapter turns next.

Common Ground: "I Don't Need to Either!"

To understand the spaces of engagement through which formalities are negotiated, the above-described limits of institutional control have to be considered in line with the somewhat tighter institutional arrangements of the allotment administration that I already alluded to in the previous section. To recall, the everyday governance of allotment gardens is not only handled through the district bureaucracies, but also by the gardeners' self-administered associations. These associations function like a political apparatus that is inserted between the individual gardener and the city's bureaucracy. Their offices are supposed to control the conditions of each plot, to mediate internal conflicts or to sue non-complying gardeners. Moreover, these associations assume all relevant managerial functions, such as subleasing individual plots at two levels of administrative hierarchy. The upper level, the district association of allotment gardeners, consists of a body of civil experts — often retired lawyers,

former employees in local bureaucracies or other lay professionals. This section is concerned with their regulatory efforts. The lower level — the local associations of each colony — elects an executive board [*Vereinsvorstand*] that assumes for example accountancy functions and will be discussed in the subsequent section.

An exploration of the involvement of the district association allows me to add a second perspective to my interest in the cooperative nature of rule and in the modalities of regulatory engagement. The administrative constraints of local bureaucracies that I described in the previous section also affect the ways in which gardening associations enact regulations. In other words, this perspective highlights that as responsible actors in the district association take on governing responsibilities, they adapt to the incapacity of the bureaucracy in complying with their part of the ‘deal’.

To start, it is useful to note that the heads of the district association of allotment gardeners are caught between the requirements of the city’s administration, on the one hand, and the exigencies of the gardeners, on the other. Consider, for instance, a conversation with Mr Binder, an experienced district administrator who has volunteered in several posts, worked in his professional life in the city’s street level bureaucracy, and today shares the responsibilities for several thousands of plots. When asked in an interview about his responsibilities to regulate, he reasons that

the excuses [of the gardeners] are manifold. I know most of them! Even the lawyer says it is terribly difficult to prove *Schwarzwohnen*. And so you leave it! You know that’s the way it is, that there are some, but as long as it works somehow, I don’t want to say, we tolerate, I can’t. But we don’t do anything against it (*interview, 16.08.13, my translation*).

Not unlike actors in Berlin’s bureaucracy, Mr Binder’s reasoning indicates the extent to which regulation is driven by pragmatism. The problem in this description is not one that promises a solution and hence does not urgently require him to get involved. However, as he notes at the start, this modality of governance, or, perhaps, non-intervention, is backed up by legal support. It permits an ‘informed’ kind of looking away. Nevertheless, Mr Binder is

reluctant to describe the administration's stance as tolerant. A 'public' statement along these lines would make these tactical practices more explicit. His statement, I would suggest, thus indicates a caution to fix the negotiable nature of these conditions by declaring them a rule. For Mr Binder such pragmatism appears entirely acceptable due to the inaction of all other governing actors. More precisely, Mr Binder describes his engagement as dependent on the efforts of the administration.

If even the local administration says that it's too laborious to interdict *Schwarzwohnen*, because it involves too much cost and trouble! ... For example, even the guy at the district office who is responsible for allotment gardening, the one who takes care of everything says: 'Well, I go through the colonies, and when I see cars in the winter covered with snow, the chimneys are smoking, well, then I know what's going on'. But he also says, 'I don't stand there and freeze my arse off and afterwards I cannot prove anything'. ... So I don't need to either! (*Interview, 16.08.13, my translation*).

Mr Binder's contention offers a view of the impact of city bureaucracies on the efforts of his own administration. It is not merely the discomfort of involvement that leads him to refrain from actively getting involved. Moreover, the rationality is here: the others don't intervene either! His likely response is to copy governmental toleration. This is not to say that the tolerance of transgressions is taken for granted. Rather, the inaction of the local districts legitimises the non-intervention of the district association and works to normalise legal infringements.

In sum, this perspective on the constellations through which governing is enacted illustrates how the relations between state officials and their cooperating partners in the colonies construct a common ground in which mutual recognition and understanding prevails. Not unlike it does in the case of the bureaucracies, regulation works through the possibilities actors have at hand. Rather than merely copying and adapting, the administrators of the colonies make use of multiple moments of discretion. Thus instead of top-down control, governing objectives are found in reciprocal reflection. In this sense, governance is not only a matter of dependency, but also one of mutual influence. I call this a realm of consent. This is not to say that the district association of allotment gardeners actively consents to the transgressions

of gardeners. Rather, consent indicates that perpetually ‘turning a blind eye’ delimits a realm of toleration or legitimate inaction, which reifies and thereby institutionalises informal rules on the ground. Inaction at this level also reflects on the lower level administration of the allotment association to which this chapter now turns.

Assuming Responsibilities, Bending the Wiggle Room of Governance

Beyond the district association of allotment gardeners, allotment governance also relies on elected officials within the colonies whose engagement is crucial for an understanding of the ways in which governing is negotiated. These officials manage internal order, administer the colony’s finances and report back to the upper tier of the association previously described. In addition, posts such as the ‘allotment specialist consultant’ [*Kleingartenfachberater*] — a job that is frequently referred to as ‘hedge-police’ [*Heckenpolizei*] — or official arbitrators work to keep social and material order within the colony. Mr Fischer, for instance, is the chairman of a colony. When I met him in the clubhouse of his colony, he critically responded to one of my first routine questions about his responsibilities in the job to state that he is, “theoretically obliged through a service contract [*Besorgungsvertrag*] ... to act as the representative of the district association in a sort of control function and report to the districts ... in a sort of vigilante situation [*Blockwartsituation*]” (*interview, 09.07.14, my translation*). This thoughtful, but sceptical description of his post alludes to the lowest surveillance authority of the observant Nazi regime. But the German term of ‘the Blockwart’ survived to date to mark someone as a snooper. If Mr Fischer’s description indicates, in this sense, that he feels instrumentalised to keep order, the internal work and ‘vigilante’ control at the level of the colony is hardly a function that merely reports from the bottom up. Rather, it adds a third dimension to the claim that regulatory enforcement is cooperative work and builds on a consensus that is negotiated by all concerned, including the ‘Blockwarte’ themselves. Moreover, this section seeks to show that actors widen their room for manoeuvre in assuming responsibility in con-

stellations of governance.

To support this claim, it is useful to note that most representatives at this level are directly involved in the gardeners' everyday lives. They encounter each other during frequent meetings, such as opening ceremonies of the season, children's festivities, or casual chats across the hedge. Arguably they have deeper impact than a 'distant' state-official who tends to avoid contact unless problems arise and is only present through the shadowy control that I previously described. Going beyond the street-level encounters in which citizens 'see the state' (Corbridge et al. 2005), allotment bureaucrats not only govern through abstract commitments and rationalities, but through their tight social relations as neighbours or friends. Governance works here, no longer at a distance (Cooper 1998), but through relations of neighbourliness.

City officials tend to describe this level of regulation as the 'weakest' or most unreliable link in the polynomial chain of regulatory efforts: It is the level where much regulatory work should be done, but frequently fails to happen. As Mrs Hartman, an allotment garden administrator reasons, it is "because the heads of the colonies are also members and have their plots within the colonies [that] they operate in fairly generous ways" (*interview, 09.04.14, my translation*). In her reasoning, they are involved hence they do not intervene. Moreover, the administration accuses these gardening officials of setting misleading examples. For instance, Mrs Richter, an allotment garden administrator in a different district, concludes in response to my inquiry into the challenges of regulation that "... a major shortcoming that I hold against the associations, ... is that the chairmen set the example, right? And surely ninety percent — if they aren't themselves permanent dwellers or proprietors — they also support it" (*interview, 09.04.14, my translation*). However, if these functionaries are able to make use of their administrative knowledge and official position to appreciate the wiggle room that they themselves open up, they can nevertheless be held responsible for their shortcomings in regulation by other gardeners and their fellow officials of higher administrative ranks. The generosity that Mrs Hartman describes above is thus not necessarily self-evident. Rather,

colony officials use their roles to expand their capacities to shape regulation.

In particular, two patterns of use of spaces of engagement stand out: On the one hand, I frequently noted how colony officials work to shape the involvement of other parties. By taking any issues that arise into their own hands, they are able to solve problems within their own realm of responsibility and can, in this way, hold possible regulators at bay. Consider, for instance, a conversation with Mr Koch, the chairmen of a colony.

You know, [...] when there is someone building another floor, I see that from far away. We would never let that go through ...

H.H.: Do you mean that your association regulates this internally?

Mr Koch: Yes we regulate. Yes, of course, to avoid the involvement of third parties: the district association or even the local district (*interview, 16.09.13, my translation*).

Mr Koch's engagement could be described as the only appropriate reaction as the regulatory efforts he describes fall into the remits of his official responsibility. His reasoning, however, requires further reflection. The motivation he states for getting involved is not, as one would expect, the blatant illegality of the imaginary roof, but rather the attempt to resolve transgressions internally. It follows that the colonies assume such responsibilities not only to regulate, but also to protect and design their room for manoeuvre in constellations of governance. The regulation of some transgressions allows them to create a realm of acceptable tolerance in which they can get away with other offences.

On the other hand, colony officials work to forge alliances with other parties. Mr Weber, an official in a different colony, explains that

you try and get some backing ... and you build a lobby.... I think you can simply say it like that. You build up a lobby and as we had this problem with the electricity connection, where [the head of the district association] threw a spanner in the works, I simply spoke to our district mayor. I said, 'look, [district mayor] we need your support, we are not supported by our district association' — and then it worked.

H.H.: you went around the

Mr Weber: Yes, we went around [the district association] and then he [the head of the district association] was told off... I don't care how, what mattered was that we managed to succeed.

Technically, his direct and strategic involvement of political circles, a theme I will return to in more depth in Chapter 7, bypasses the hierarchies of regulatory responsibilities, as it is not the job of the district mayor to penalise adverse allotment bureaucrats. But in the present case, the local colony officials had proven to be reliable and cooperating partners, building a durable relation to the district mayor and were thus able to bypass the involvement of the district association. Such forging of political alliances allows colonies to widen their sphere of influence in constellations of governance and it enables them to create room to shape the ways in which transgressions become subject to regulation.

In sum, the ‘vigilante control’ Mr Fischer described at the start of the present section, is hardly carried out by following top down measures. Rather, colony officials mediate the conditions of their involvement in constellations of governance, as the devolution of responsibilities to this level increases the wiggle room in which they can manoeuvre transgressions. These responsibilities, in turn, allow them to reconfigure the modalities of regulatory enforcement. In this sense, the agency of vigilance appears closer to a notion of vigilantism as the self-rule of community through the everyday governance of security (Wisler & Onwudiwe 2008), than to the *Blockwart* regulation of the Nazi regime.

Ground Pressures: “That Wasn’t Very Popular!”

In addition to the city’s institutional structures and the administrative ranks of the association, allotment holders discipline each other’s conduct on site. Their internal regulation through social ties and mutual control is the focus of my fourth perspective on constellations of governance. Through this view, I seek to show, how social relations and neighbourhood bonds not only create pressures to conform to standards of appropriate conduct but also moments of tolerance. Both of these conditions shape imperatives of rule.

In order to establish a background against which to discuss the social structures on site, it

is necessary to return to the rapid social change that accompanied German unification. As I indicated in Chapter 4, in many of the former Eastern colonies, particularly those near the Berlin Wall, plots and managerial responsibilities were preferentially given to party affiliates or the higher ranks of the military. According to my interviews (e.g. 06.07.14; 19.06.14), these ‘selected cadres’ crucially shaped the social structure and conduct on site. As indicated in Chapter 4, with respect to the allotments, the end of the GDR was not only accompanied by a conflictual process of social change, but also a shift in modalities of regulation. As Mr Kaiser, a gardener in an Eastern colony, provides a thorough description of the changes in his colony’s community life, it is worth quoting him at length.

At the time, there was always someone, who took the children who ran around here under his or her wings. ‘Where are our children? Don’t worry, they are back there!’ That was all taken care of. ... That’s unimaginable today. ... It went so far that people, who had addressed each others on a first-name basis for over ten years, who had celebrated and worked together suddenly started to address each other formally. There was an alienation, ... people wanted to create social distinction, right? And then, at the beginning of the nineties ... established structures that were ... in part, well ... good, they broke apart. Those, who were then part of the armed bodies of those days, they are still with us in the colony. They built, I’d like to say, still a sort of internal command structure [laughs], so when someone said, look, we have to do this now, then people stood up to do things, right? You can position yourselves towards these people however you want, but at least, they were those who got up and said, this is how we used to do it and this is how we will continue to do things. And they pulled others along, it was a positive development — socially speaking — that we went through back then and it still shows its traces (*interview, 26.06.14, my translation*).

In fact, during my fieldwork, I met quite a few ‘high cadres’ who were not shy to speak up about their history. Perhaps, this can be seen in light of the respect that Mr Fischer is still ready to pay. But currently a generational change is on its way. In contemporary Germany, allotment plots have been used on average for 19 years by the same gardener (Buhtz et al. 2008: 65). But many who have worked their plots since post-war times, have jointly grown old and are slowly retiring from their plots. Today, a new generation is entering into established constellations and causing ruptures in the longstanding routines of allotment life (Brakebusch 2014: n/p).

These processes of transformation include concerns about regulation. This is not to say that established governing modalities have vanished over-night. Numerous discussions I observed focused on the responsibility of *all gardeners* to check their peers, for instance, in their use of public alleyways, their compliance with resting periods or their care for flowerbeds (e.g. *fieldnotes*, 19.06.14). These point to a fourth modality of regulation in constellations of governance, namely the pressure to conform.

To describe the social relations through which gardeners exert this pressure, Mr Fischer, adds a pointed ‘mimicry’ to his account of the *Blockwartssituation*.

The one who lives over there has a very old Transit [*whispers*]. Ford Transit. He stored so much wood on the roof, eventually the roof rack collapsed. Ah... and this one ... only ever gets up around noon, although he’s a baker [*laughs*] ... ah, and for example this one, she is new and a very young woman, a student, has a small child and is separated from the dad and all of that... and says, o.k., actually she wants to try gardening without watering, that nature fetches everything for itself. Well, I think that’s ok, but all the others ... the neighbours... mhm, well, that wasn’t very popular!

In Mr Fischer’s statement everyone ‘has a reputation’. Such reciprocal inspection results, not only, from the longevity of the social relations, but also from the vivid conviviality as well as the spatial proximity on site. In addition to hedge-to-hedge encounters, regular festivities, club activities and horticultural competitions further the tight social relations that characterise the colonies. Particularly, in older gardens, this comes at the price of strong pressure to conform to expectations of ‘appropriate’ conduct. As Mr Fischer goes on to describe the effects of this social proximity on the regulatory efforts on site.

It’s an irritation of this old rationality of order [*Ordnungsdenken*] that we have long rehearsed and that has well ... moulded everyone! It’s this twin effect of allotment order, whatever that is. Everything weed-free and accurate and then: pah, pah, pah, the rite of work — that’s of course a high priority too! Well, someone who works hard is regarded highly. And you really have to say, people that take it well ... a little easy, that’s difficult ... it’s a village ... and once someone has their reputation, then, ... well that’s like rumour that is taken through the compound. And, that is why it comes to such a reputed uniformity in the allotment. Because there is such a mind-boggling group pressure!

As Mr Fischer indicates throughout these contentions: conduct in the gardens is dependent on a pressure to conform. Interestingly, his description of village life relationships around the allotments seems to run counter to descriptions of the city as a site of alienation (Simmel 1993 [1903]). If urban research laments the disappearance of community-life (Jacobs 1993 [1961]; Sennett 1974), the allotment, by contrast, remains a space of tight social proximity.

Chapter 7 addresses the boundary work that may accompany such intimacy (Appadurai 1997). Here, I want to point out that close-knit bonds construct representations of people and thereby shape systems of meaning that bear on regulatory efforts. Social relations, in other words, construct a bundle of expectations that are likely to designate what behaviour is thought acceptable and what needs to be followed up. This peer-to-peer (i.e. hedge-to-hedge) condoning reflects remnants of the dual tradition of the gardens that operated not only as an infrastructure of food supplementation to answer ‘the stomach-question’ (*die Magenfrage*, Nilsen 2014: 93), but also as a project of moral regulation and social engineering to answer the lifestyle question (*die Lebensfrage*, *ibid.*). Chapter 4 explores this genealogy to question its paternalistic projects: if allotment culture aimed, as Nielson writes, to “inculcate moral values in workers” (2014: 14), according to Mr Fischer’s description, such prescriptive behavioural standards have yet to be overcome.

These modalities of governing through internal pressure direct attention to what I would like to term with Nugent (2008: 209) a ‘subaltern governmentality’. This allusion to Foucault not only highlights that civil bodies shape conduct by ‘moulding the souls’ of ‘all walks of life’ (*ibid.*: 211), but it also illustrates that gardeners practise state-functions as they themselves enact regulations. Moreover, I take the paradoxical notion to describe the nature of rule as a two-sided process: While ‘subaltern governmentality’ institutes state rule through everyday behaviours, such regulatory energies also affect the workings of the state apparatus. It follows from my analysis that the internal rules in the colonies gain a dynamic of their own that lies beyond administrative efforts. They institutionalise a system of order with its own rules and roles: internal norms may support illegal dwelling, but they may undermine, for in-

stance, alternative forms of gardening that are supported by bureaucracies. In this sense, the ordering behaviour of allotment holders may be independent of or potentially at odds with the aims of the state. They bring, in other words, their own rationalities into constellations of governing and govern by creating pressure to conform. The notion of agency this account entails implies opening up a space through which to think of people not as subaltern, victimised or resistant, but as players that are endowed with different means to conform to and mend regulation.

Governed by Global Shadows

Before this chapter draws to an end, it is crucial to pause and consider the effects of a competitive housing market, of ever increasing demands for land, and of the city's development politics at the more intimate scale of everyday rule on which this chapter has focused. Therefore, this section does not present one further view onto governing constellations, but an excursus into the conditions in which these constellations are set.

As already noted in Chapter 4, global forces of investment loom large over the life on site. To capture the ways in which macro scale power is experienced in the gardens today, it is useful to recap the account I presented in this chapter on the pressures on allotment land in the city today, as the modalities of governing that I previously described hinge upon this economic and political conjuncture. Since the 1960s the city has experienced a plethora of local disputes around the abandonment of its greenery, as different departments in the Senate foresee new housing and infrastructure on allotment land. As the Senate proclaims that Berlin will gain approximately 254,000 inhabitants within the next 15 years (SenStadt n/d b) this pressure has become even more salient. Thus although the responsible actors in SenStadt promote the protection of allotments, and despite the strong lobby that allotment holders have built, at times the preservation of land is of limited success. Not unlike earlier decades, gardeners are thus afraid that their colonies will be sold. The relation of this conjuncture to

questions of informal dwelling may not be immediately obvious. Let me then describe how the pressure on land works as a driving force that heightens the pressure to conform to rules within the allotment gardens.

To understand this link it is necessary to return to my previous discussion of the *SachenR-BerG* in Chapter 4. After unification, as I noted in that chapter, gardeners obtained the right to purchase their gardening land if they had built huts that served the purpose of dwelling. In the aftermath of a wave of acquisitions, a number of compounds fell out of the jurisdiction of the *BKleinG*, as they were rededicated as recreational areas. To guide this development the legislators amended the law. To regulate the extensive construction activity in some of the allotment gardens, the *BKleinG* was given an annex, which defined the limits of what was to count as an allotment compound. In the context of heightened land speculation and global investment flows, this annex helpfully illustrates how market pressures, in conjunction with the law, work today as a disciplining device with ‘panoptical qualities’ (Devlin 2011a: 59). Following this amendment, the owners of the land, can threaten the users with the loss of their protective status — a move that promises a gain in revenue. Thus beyond a more general fear that allotment land could be sold, the risk of rededication when too many gardeners trespass the law and endanger the persistence of the status as an allotment colony, finds resonance in the gardens. Consider an interview with Mr Weber, the head of a colony that is located on church owned land.

Well the gardeners ... it is often their own fault [that land is repurposed], because they don't adhere to the rules. Well we know have some... they have built up to 100m². And those are houses! And then, there are little chances ...

H.H.: And does the owner [control] too...?

Mr Weber: ... Not officially ... We know that they regularly fly over the compound ... and take aerial photos ... I've seen them, the aerial photos taken by the church. They bring them forward and say, look 1990; it looked like that (*interview, 19.06.14, my translation*).

In this climate, the negotiations around room for tolerance have become harsher. For instance, Landgraf and Kraetsch, the president of the City Association of Allotment Gardeners and his lawyer, plead to the gardeners: “Those that act out of self-interest and do not

comply with the legal borders of the BKleinG, for example through oversized structures or through the refusal to use their gardens for the production of horticultural products, ... through the parking of vehicles or through dwelling on the plot, deprive the gardens of the legal protection of the BKleinG” (2008: 23). In the context of heightened investment pressure, such threats work in an effective way. They condition the modalities of regulation that I have previously described.

Conclusion

In Berlin’s allotment gardens, numerous actors and networks establish order through the everyday negotiation of rules and roles. The last section of this chapter has shown some of the forces from outside of these sites that constrain the room for manoeuvre inherent in these processes. But a micro perspective on the everyday negotiations within these sites points to the ways in which actors challenge these constraints. This viewpoint makes it necessary to look more closely at the ways in which governing plays out between multiple actors.

This chapter has shown four modalities of everyday governance. First, my focus on bureaucratic actors demonstrated that governing works through limited capacities and conflicting rationalities. This perspective hints at pragmatism, rather than a close adherence to the books, which leads governing actors, in the present case, to turn a blind eye and rely on their cooperating partners in the allotment colonies. My second perspective on governing constellations raised questions about the nature of cooperation. As rules are not so much downloaded in a hierarchical fashion, but perpetually arranged between differently positioned agents, this view has shown that actors in the gardening administrations adapt to the governing modalities of the bureaucracy. My third interest concerned the ways in which actors assume responsibilities by manoeuvring through their room of discretion. Rather than conscious professionalism, governance in practice implies that actors are enlarging the room for engagement in constellations of governance. Finally, this chapter has demonstrated moments

of tolerance and neighbourliness, rather than ‘technocratic rule’ and rigid top-down control. Through the tight social relations between actors within the colonies, allotment holders also exert pressure to conform and thereby introduce their own rationalities into processes of regulations. Through these modalities of governance all concerned actors condition order: they open room for manoeuvre to enable and constrain regulatory implementation; they pattern enforcement; and they create legitimacy for legal violations. The agency I find is neither the unintended minuscule agency of Foucauldian accounts, nor the agency of resistance against a muscular state, but an agency that builds on individuals’ practices and capacities in the everyday enactment of rules.

This chapter not only shows that the modalities on which regulation relies shape the ways in which order is institutionalised, but also that enacting regulations is a joint effort: bureaucracies have little choice but to rely on their partners in the colonies. Allotment holders, in turn, can widen the room of tolerance through adapting regulations, but they also need to adhere to the rules of the game. Together, all concerned negotiate consent around the modalities of regulatory enforcement. Consent foregrounds association, but it does not imply approval. Rather, consent is likely to be the contested result of a necessity.

To understand the making of consent, it is necessary to consider its temporalities. Over time, modalities of building consent are shifting: as new actors are drawn into processes of governance, constellations are re-arranged depending on the issue. At times, constellations may be built on a case-to-case basis. In these cases, “institutional impact is”, as Cooper argues, “contingent on specific circumstances, rather than on more abstract conceptions of how different bodies operate” (1998: 170). This is not to say, that regulatory modalities are constantly rearranged. Whereas some modalities of governance are perpetually reproduced, others are shaped by generational change as new groups that enter into established constellations create moments of disruption and build new cooperations. As Simone notes — writing about the uncertainty of life in cities — residents operate through “an expanded notion of political technologies [which] entails putting things into relationship so as to make contin-

gent the use to which they have been put in the past, to open up spaces of contestation and experimentation” (Simone 2013: 244). In this sense, order is both, perpetually re-constituted on a day-to-day basis as well as open to change.

Moreover, questions about legitimacy emerge from my understanding of consent. Regulations may be considered as intrusive, or, at other times they may be seen as too lax, but in order for people to consent, they need to be seen as legitimate. A helpful understanding of legitimacy stems from the work of Steve Connelly. Connelly takes legitimacy to be a relational effect that depends on those who grant it and confirm claims to authority, rather than merely on those who hold it (Connelly 2011). In other words, is legitimacy not, as he writes elsewhere with his co-authors, “a ‘given’ in any system, but a construct, which has to be maintained and reproduced by the power structures it in turn legitimates” (2006: 269). It is, they conclude, a product of ‘claims and counterclaims’. Similarly, and more directly related to the theme of governing-practice, Cooper sees legitimacy not as the result of a demand or a theoretical necessity, but gained through the combined aspirations and projects of all political stakeholders, electoral considerations, the rationalities of the state and multiple modalities of ruling (1993: 260). If legitimacy is thus an essential requirement for an issue to be accepted as formal, this chapter has also shown that both of these notions — formality and legitimacy — are dependent on particular perspectives and thus most likely to be contested.

What does this then imply for an understanding of formality? Such an account of enactment implies an understanding of regulatory processes in which formality is neither fixed, nor instituted top-down, but mediated through shifting constellations of governance. The enactment of formality builds on these modalities at play and characterises the notion, as I argue, as an open-ended project that hinges on these constellations. An understanding of formality, therefore requires not merely an account of order, state and law, but rather of the widely distributed room for engagement in the enactment of regulations. With this claim in mind, let me return to the encounter with which I opened this chapter. Ron’s story is perhaps the largest transgression that I have outlined in this chapter. But the range of disorders I

have discussed also point out that the mechanisms through which his dwelling practices are tolerated hardly differ from those that allow for smaller transgressions. Prosecution depends not merely on the severity of disobedience, but rather the possibility to dwell is contingent upon on the ability of multiple agents to negotiate an agreement on the perpetuation of the status quo.

In considering the constellations through which regulations are enforced, this chapter has provided a basis from which I discuss the boundaries of this agreement in Chapter 7. To do that Chapter 6 first explores the frameworks of order on which such negotiations rely.

6. FRAMEWORKS OF ORDER

Performing Order, Adapting Rules

Later in my fieldwork I came to know a family, who owned an expensive allotment hut just outside of Berlin. The hut resembled a Danish cottage; elegant old windows had been set in new wooden walls; a large terrace facing a well-kept garden had been newly added under an old, but refurbished canopy. The hut housed an extensive bedroom and a fully equipped kitchen on at least 34 square meters. Moreover, this construction was extended by an annex that accommodated a bathroom and extended into a sauna. On the weekends and during extended vacations the family took residence in the garden and during my fieldwork in 2015, I frequently visited the compound. When I eventually joined the association myself, my first general assembly on site gave a clue as to how this extensive structure was allowed to exist although it hardly appeared to comply with specificities of the BKleinG. The president was proud, he reasoned in his introductory speech, to protect the colony's building stock and promised support in this venture (*fieldnotes*, 30.05.15). When the family had taken over the plot, they had replaced the old hut, which technically forfeited its building permit. But as they proceeded step-by-step, to rebuild wall after wall, the association continued to treat the house as if its authorisation remained in force. Through their strategic renovation, they had adapted the law to their needs.

This situation in which actors manoeuvre the law provides an entry point into this chapter to discuss the negotiation of rules in which formality is embedded. For Datta, research on informality is prone to disregard the difference between informality and illegality (2012: 7). Although, the literature, as she notes, tends to conflate the two terms, it frequently favours

informality as a framework to capture the state-citizen relations that define everyday life in unregulated settlements. Datta, in contrast, turns to write about the illegal city, and argues that this concept allows her to better describe the processes at the core of her case.

I insisted in Chapter 2 that the formality-informality nexus does work to describe the legal dimension of state-citizen relations, if these terms are specified. To do that, I suggested building on anthropological scholarship on the workings of states (Mmembe 1992; Gupta 1995; Das & Poole 2004; Nugent 2008) and their street level bureaucracies (Proudfoot & McCann 2008; Lipsky 1980). These literatures explicate this nexus through an understanding of the ways in which regulations are constructed through more or less institutionalised practices. To discuss this production the previous chapter focussed on the constellations of actors and institutions through which formality is negotiated. This chapter continues this discussion through a related dimension of governing, namely the frameworks of order on which practices of governance rely. I use this notion to describe the multiple and frequently contradictory statutes that construct a meshwork of legal ideas. I keep this notion intentionally vague to include the stated and unstated rules that guide regulation beyond the law, such as contracts, social norms or the policies of the associations. This focus helps me to unravel processes of negotiation inherent in the implementation of frameworks of order, and through this exploration rethink the notion of formality.

In Chapter 2, I introduced this theme by contrasting two approaches: On the one hand, I obtained an ‘instrumental’ approach to order from a review of informality research. In this view authors define formality through a centralised notion of the state and a given legal framework that sets the rules against which informality plays out. Böröcz, for instance, defines formality through the adherence to ‘fixed rules’ (2000: 351) that are considered as independent of local practice. On the other hand, I drew on accounts of governance that fall into the realm of legal geographies (Blomley 2004; von Benda-Beckmann et al. 2009), as well as socio-legal studies (Cooper 1998, 2011; Braverman 2008, Levi & Valverde 2008; Valverde 2011). These literatures offer an approach that studies legal frames not as premises for social

relations, but as a contested, hybrid and negotiable product of the wider social context in which they are set (Smith 1990; Tamanaha 2008; Valverde 2009; Blomley 2014).

I advocated the latter approach, not least for its awareness of the ways in which formality is contingent upon the enactment of rules on the ground. The ‘instrumental’ approach I outlined characterises the relation between the ideas inherent in the law and their performance in everyday life through the non-compliance to rules, a boundary to a legal sphere and the inability to enforce rules on site. My approach allows me to rethink this relation at least in two ways. First, it helps me to explore the quality of the frameworks of order themselves. To speak of non-compliance requires rules to be clear-cut. By contrast, an approach that considers the ambiguity of legal frames makes it possible to consider the production of formality through the implicit assumptions, limitations and contradictions that are underlying such frames. Second, it enables me to expose different modalities of enacting the law. For instance, Chiodelli and Moroni (2014: 163) argue that “a substantial proportion of low-income unauthorised settlements are not outside the law Rather, they have been created in light of the law ... , even though they are not always in conformity with the law”.

Such legal awareness constitutes a common way in which actors accommodate regulation in their everyday practices. But in looking closer at the extra-legal work of enacting rules, a whole repertoire of modalities through which actors relate to frameworks of order becomes easily apparent. Take, for instance, my introductory story. It illustrates a process in which the law is not simply “performed into being” (Blomley 2014: 142), but in which gardeners create spaces of negotiability, or, say, everyday engagement in and through which they defy the law. These processes show how regulations are challenged or fortified in governing practice. Consequently, this chapter argues that formality is usefully understood through the enactment of rules, rather than the imaginaries inherent in those rules. The solutions that are found on the ground may be adaptations of the law, but they gain legitimacy and are treated as the formal order in site.

The sections to follow underpin this claim with a discussion of two regulatory technologies,

each concerned with the regulation of dwelling — although through different means. They enable me to illustrate two modalities of regulatory enactment through which order is negotiated. The first, *Manoeuvring Multiplicity* discusses the governance of dwelling by reference to a public registry. A discussion of the ways in which regulating actors combine rules illustrates how order is composed through the flexible interplay of different legal frames. The subsequent section, *Manoeuvring Meaning*, explores how dwelling is regulated by way of reducing the huts to the standard of the BKleinG and other frameworks of order. It traces the malleability of regulations and their appropriation through discursive and material means. In drawing out some of the ways in which actors adapt the law, including the translation of legal imaginaries or a play with the categorisations inherent in the law, and in showing the effects of these adaptations, such as the institutionalisation of new rules or the rededication of entire colonies, I explicate how the manoeuvring of meaning shapes formalities. In concluding, I suggest how these processes of enactment can clarify the relation between formality, informality and legality.

Manoeuvring Multiplicity

A discussion of the ways in which regulating actors combine and adapt frameworks of order usefully starts by looking at the laws that are being manoeuvred. This section engages with two sets of regulation, the Federal Registration Law [*Melderechtsrahmengesetz (MRRG)*] and the BKleinG. These laws are opposing legal formats that embody distinct rationalities and regulate dwelling through different routes.

On the one hand, the BKleinG, which I introduced in Chapter 4, is concerned with the structural and horticultural use of the allotment, as well as the conditions of its lease. Following Santos, it can be described as a ‘geo-centric’ law, as it regulates the use of the allotment by regulating the nature of the space according to “objective and generalizable features” (Santos 2002: 432). The BKleinG protects the use of the gardens for non-commercial purposes, in

particular for the production of horticultural produce for subsistence as well as for the recreation of the gardeners (§1). Consequently, its underlying norms uphold the idea of greening cities and of fostering urban health. Given this focus, the BKleinG is not particularly concerned with questions of dwelling, although it does state that huts must not — regarding their facilities and furnishing — be suitable to dwell (§3). Dwelling is thus regulated indirectly, namely by restricting the materiality and design of the hut. However, as I previously mentioned, the regulation of dwelling is entangled in a legal contradiction: although the law only restricts dwelling through the materiality of the allotment, Berlin's local bureaucracies tolerate the infrastructure that is necessary to use the allotment to dwell. This includes toilets as well as telephone and electricity connections.

On the other hand, the Federal Registration Law obliges all residents in Germany to locally register their whereabouts at an existing address. The collected data is administered in the form of a register of residents [*Melderegister*] by local citizen centres [*Bürgerämtern*] and, one could argue, works to make the complexities of the citizenry legible, i.e. statistically intelligible, and thereby manageable (Scott 1998). Clearly, in both cases, legislation is not merely about technical choices, but endowed with particular remits, aims and rationalities. The differences between these laws provide a starting point to discuss the ways in which actors regulate informal dwelling by manoeuvring the interplay of rules.

Composing order

To outline the means through which bureaucrats creatively compose order by juggling different frameworks, this section starts from the constraints of the BKleinG that make such manoeuvres necessary. Given the above described limits and aims, regulators struggle to enforce a rigid non-dwelling regime through the BKleinG. Most bureaucrats, as I have previously noted, walk through colonies and practice a sort of on-site survey, which leads mostly to nothing (*interview, 07.08.13, my translation*). However, despite the futility of their visits, the

bureaucrats I spoke to make an effort to keep track of the transgressions in their realm of responsibility. To do that, it has become common practice to check the register of citizens to find out about illegal registrations in the gardens. For instance, Mr Werner is a young allotment garden administrator, who manages the compounds in a district renowned for its regulatory problems with an office of only three employees. Clearly, he is drowning in work. He reasons:

Concerning the control of these illegal and permanent dwellers, the only thing I can do is this 'household-disclosure'. The legislation gives me this right... I obtain a list from the local citizen centres and then you can match, who is legal; who is obviously illegal and then, ... then you have to see (*interview, 07.08.13, my translation*).

Lamenting his limited possibilities, Mr Werner teases out the rights the state has granted the bureaucracies. Although the public registry that holds the requested information falls into the responsibility of another administration — the registration office [*Meldebehörde*] — he cooperates with this organization in order to access to this data. This is what I mean by *manoeuvring multiplicity* — the negotiation of order through a strategic composition of different frameworks of order.

Manoeuvring multiplicity works in an effective way. Bureaucracies have only incorporated the above-described inquiry into the gardeners' official whereabouts in the last couple of years (*interview, 23.04.14*). But despite being a routinized intervention and a well-known measure today, it still helps to discover numerous 'black sheep' amongst the gardeners. Hence Mr Werner insists in quite a displeased manner,

I can really only check: who is *stupid enough* to register there, ... [who] sticks out, this person will be written to and *suggested ... requested ...* otherwise [this person] will get notice from the district association of allotment gardeners (*interview, 07.08.13; my translation and emphasis*).

As his scornful assertion indicates this measure only catches those who do not respect the rules of the game. As they disrupt the consent I have previously described, it appears as if Mr Werner finds the conviction of those who 'stick out' to be their own fault.

But as Mr Werner is not the only actor involved in the production of order, the effects of this manoeuvring are contingent on others in the governing constellations I previously described. The process proceeds, as he reasons, through the district association of allotment gardeners, and then, as he noted before, ‘then, you have to see’. The bureaucracy can only ‘suggest’, or ‘request, but these attempts lack legal foothold. Furthermore, this possibility to regulate conflicts with a different law: it interferes with “data protection”, which as Mr Werner fretfully notes,

... in this case, at least in my opinion, it protects the wrong side. Well, how can I prove that I don’t live in an allotment. Theoretically, through a tenancy agreement and a registration at another address. But you cannot... at least to show the tenancy agreement, you cannot force anyone. Today, ... I could register at your place without you knowing that. If I would have your address, ... I could go to a local citizen centre and tell them I’m living with Mrs Hilbrandt (*interview, 07.08.13, my translation*).

Despite this critique of the legislator, or the law that is hindering his work, Mr Werner hardly appears to abandon the idea of enforcing regulation. In fact, most administrations inspect the gardens, make use of their spaces of discretion and creatively think of ways that allow them to implement the rules. This includes illegal means, such as an around the clock video-surveillance over a sustained period of time. A twenty-four-seven surveillance would be, as Mr Werner notes, particularly effective during the winter where one cannot do much with the gardens, but as he adds himself, he would hardly possess the rights or means to execute such measures (*interview, 07.08.13*). However, I learned in a later interview that one of the colonies had sued his administration, as its ‘formal’ attempts to enact the law had violated this data protection act (*interview, 16.09.13*). This example and similar instances, in which bureaucracies reach out to different rules describe continuous attempts by all concerned to try and make regulations work for themselves through adapting frameworks of order to the locales on the ground.

A useful understanding of the multiplicity of rules has been captured through the notion of legal pluralism. In short and to recap the discussion of this concept that I offered in Chapter 2, the concept has been defined as the “interaction of many regulative orders based on dif-

ferent sources of authority and legitimacy” (Chiodelli & Moroni 2014: 163; see also Merry 1988, Melissaris 2004). This account of law as ‘a multi-centred field’ not only highlights the ways in which a plethora of quasi-legal practices produce a plurality of legal orders, it also allows for the decentralisation of state law (Barzilai 2008: 396). Moreover, legal pluralism implies that rules do not work on their own, but need to be considered in line with their complex interactions that are dependent on circumstance (Chiodelli & Moroni 2014: 166). If legal pluralism usefully captures these ‘institutional and legalistic logics’ (Tamanaha 2008: 398), my discussion illustrates the intentionality with which they are employed. In showing how regulatory frames need to be activated, i.e. known, understood and successfully applied, my discussion demonstrates the often ‘latent’ power (Allen 2004: 20) of regulatory frames. Bureaucrats enact order by reaching out to different rules, which, in turn, needs to be accommodated alongside other rules that guide a particular context. It shows that regulations do not coexist in an uncoordinated way, but are strategically composed. In this sense, an account of agency or negotiability shifts the focus from ‘legal pluralism’ to, a ‘normative’ or ‘regulatory pluralism’ (Tamanaha 2008). As Tamanaha notes, “people and groups in social arenas with coexisting, conflicting normative systems will, in the pursuit of their objectives, play these competing systems against one another. ... Very often they will remain in conflict, with serious social and political ramifications” (2008: 401). To understand these ramifications and their implications for a discussion of formality, it is useful to widen my account and include the perspective of the gardeners. How do allotment holders manoeuvre multiplicity?

In line with the district bureaucracy, some of the gardening associations also make house visits to check addresses — although this depends very much on the colony (*interview, 18.06.14*). However, their hands are similarly tied. When gardeners are ‘smart’ enough to officially register elsewhere, for instance at the apartment of their children, the gardening associations also lack the necessary means to convict the dwellers (*interview, 18.06.14, my translation*). This implies that informal residents fake an address to ‘comply’ with this national rule. In the end, being registered is hardly an indication of the actual place of residence. Rather, an officially registered address has become a signifier for the proper application of the law, a symbol for

the orderly behaviour of the gardeners, or a sign of respecting the rules of transgression and as such it is part of the consensus I described in Chapter 5. For the theme of the present chapter, this reaction implies that manoeuvring multiplicity is a dialogical process, in which all concerned participate in the composition of order.

To support this claim, it is useful to show that the enactment of this law reverses its initial purpose. From the perspective of the dwellers, the Federal Registration Law ends up being a protection when one knows how to play the rules. Consider the contention of Mr Koch, a permanent resident I have introduced before.

We've already talked about [the permanent inhabitation of hut] with the district mayor. that's why it's tolerated on the quiet the way it is. We have our addresses, no one is registered illegally, mhmm, ... there were such cases in the colony, but there we ensured ourselves that this would change in the interest of all concerned and mhmm ... since, ... there's been peace and we're on good terms with the local district (*interview, 16.09.13, my translation*).

His assertion points to a direct agreement with political circles and it echoes the play of actor constellations that I previously introduced. In allowing the gardeners to prove their reliability as partners in cooperation, the Federal Registration Law allows them to avoid scrutiny and thus to continue to dwell on their allotments. Peace is, as Mr Koch notes, 'in the interest of all concerned' and this interest or the consent that it implies overrides questions of legality. His statement also alludes to a commitment to stay under the radar, resolve conflicts internally and to respect borders of tolerance — themes I discuss in more detail in Chapter 7. But in the context of my present concern with frameworks of order his contention indicates that the ways in which rules play out on the ground crucially depend on the context in which they are introduced and negotiated by all concerned.

From these two perspectives, *Manoeuvring Multiplicity* shows that rather than being determined by jurisdiction, people are constructing modalities of governance by juggling frameworks of order. These frames are, in this sense, imaginaries that are performed as people enact them on site, rather than a pre-set administrative blueprint. These claims will become more appar-

ent in the next section, which turns to the ways in which people adapt frameworks of order by negotiating their meaning.

Manoeuvring Meaning

In his classic work on the power of discourse Norman Fairclough (1989) illustrates how a policy shifts as it translated from one discourse to the next. Each move, he argues, opens up spaces for contestations or interpretations (see Shore & Wright 2011: 14). As with the moves that Fairclough describes, the trajectory of contestations I am concerned with pertain to the adaptation of frameworks of order into locally customized rules. Hannah Jones' (2011) study of policy implementation in the London borough of Hackney explores this idea in the context of local bureaucracies. Beyond the 'semantic terrains' of documents, her methodology attends to the ways in which urban practitioners interpret, use and contest the 'meaning' of policies in their everyday work. Her approach, argues Jones, allows accounting for the 'inevitable embeddedness' of bureaucrats "as persons with commitments" (*ibid.*: 60). She suggests with Hunter that policy documents constitute "a meeting point for ... multiple perspectives" and thus hardly transmit "a definite normative truth about the world, but ... fictions between what 'is' and what 'might be'" (cited in Jones 2011: 72). For Jones, the ways in which bureaucrats imagine policies and accommodate the differing assumptions that guide the interpretation of a text crucially shape their implementation. Accordingly, it is my starting point in this research that people position themselves against frameworks of order. In the organization of allotment dwellings, the law, its amendments and certain protocols are always present. But these documents are overlaid with individual interpretations and narratives of their enforcement, so that bureaucrats work in their personal ways to make these texts productive. Starting from Jones' approach, I widen the perspective and include the view of functionaries within the colonies as well as allotment dwellers in order to understand how all involved in constellations of governing use their subjective understanding to manoeuvre meanings and negotiate frameworks of order in adapting them to the situation

on the ground.

My discussion of these processes of meaning-making draws on a second regulatory technology that works to restrict allotment dwelling, namely the regulation of huts that are outsized and over-equipped. Although allotment garden administrators rarely link the regulation of allotment infrastructures to the containment of unauthorised dwelling, adapting huts of unduly size and shape certainly has this effect. In theory, the legal restrictions that concern these constructions are brief: the BKleinG describes the standard of the hut as ‘simple’. It can neither exceed a floor space of 24 square meters including a roofed porch (§3, para. 2), nor may it — through the character of its furnishing and installations — be designed for permanent stay (*ibid.*). Berlin’s administrative regulations [*Verwaltungsvorschriften*] amend this law: They limit the height of the hut to one story and dictate further details, for instance the character of its roof (§11, para. 1, Land Berlin 2009). Constructions also need to meet Berlin’s building code (BauOBl) and this necessitates the authorisation of a building inspection [*Bauaufsicht*] as well as the approval of the lessor.

In practice, these regulations are complicated by the messy realities on the ground, for instance, through different localities that set divergent standards or a complex array of legal exceptions concerning constructions that pre-date these regulations. When huts have been actively or passively tolerated for longer periods of time, regulators tend to hold off from any alterations until the termination of the leasehold contract. As active or passive toleration has long been the norm, generational change is most often related to the dismantling of old and oversized huts and their adaptation to contemporary law. The reduction of oversized constructions to the requirements outlined above requires the new tenant to deconstruct the parting tenant’s illegal and often run-down property. These processes, as I show, involve incessant negotiations. They also allow me to consider the ways in which actors mobilize legal frames to adjust the above requirements into feasible solutions.

More particularly, the following sections trace modalities of adaptation as well as their effects to illustrate a trajectory in which the alternative solutions that are found on site gain

the recognition of the bureaucracy. The first section starts from the pragmatic translation of regulations to particular circumstances; the second illustrates how actors play with the categorisations inherent in the law to negotiate local solutions; the third proceeds to show how the local standards that have been found through these adaptations perpetually become institutionalised; finally I consider the wider effects of these processes at the urban scale. Whereas my previous interest was with the composition of multiple legal frames, this section captures the different ways in which actors manoeuvre the meanings of these frames when they adapt them to specific local sites. It points to the malleability of these frames, the room for manoeuvre in their adaptation, and the effects of such manoeuvres on the production of formality.

Translation

Earlier, I suggested that the notion of projection (Santos 1987, 2002) describes the incongruence between the normative fictions inherent in laws and the factual or contextual circumstances to which they are applied. The greater the difference of the projection the more laws require adaptation to fit the ground. They require, in other words, a process of translation — the first modality of meaning making that I trace in this section.

To explore this modality, it is useful to consider the proceeding of the dismantlement of allotment huts that I described previously. To start, Mr Ludwig, the president of a colony, offers his perspective on the projection of the law and the difficulties they bring about.

The BKleinG only permits 24 square meters of built space, and only one cabin, not two twelvers [huts of twelve square meters] standing somewhere separately. And that is a task that is sometimes almost impossible to fulfil.... Where it is technically and statically possible to deconstruct, we do it, or, say, we try it. But there are things that are simply not resolvable, then you can only demolish the house, right? If he [an exemplary gardener] has 30 square metres and he is to deconstruct to 24, that's technically not possible, right? ... and people haven't agreed on this issue — people of law and the like. There is to be an interim-period of 20 years or so, in which the building stock is gradually deconstructed

further, so that it finally complies with what the provision says, right? It's a really difficult problem (*interview, 06.07.14, my translation*).

Mr Ludwig's efforts of adaptation describe a common problem and they echo the discussion of pragmatism that I offered earlier. Following his description, technical difficulties define the adaptation process, which is also characterised by uncertainty. Despite his good intentions, Mr Ludwig has no capacity to deal with the problem and is left with open questions on how the process is to proceed. These difficulties in applying the law make translations necessary.

Translations are guided by the rationalities of governing actors. As I have frequently noted, colonies strive to maintain what they consider to be valuable property. For instance, Mr Berger, head of an old, large colony on being questioned as to how he deals with reductions, explains:

Well, first I have a heart attack when I read that [the reduction requirements] [*laughs*], ... but, well I would say, as long as I've been doing this, I haven't lost a single hut. Healthy reduction, ... where you can say, well, mhm ..., we are ready to accept that. That has worked so far. So, good luck! (*Interview, 10.07.14, my translation*)

His endeavour to deal with this question in a 'healthy' way appears to be a matter of chance, which is widened, as he later notes, through a bargaining with bureaucrats. But this trial and error procedure is open to transition; it suggests, in other words, that things could be more effectively done in quite a different way.

Typically, this adaptation of oversized huts follows a standard procedure — an institutionalised process of translation. Two valuers visit the plot and write a protocol that fixes a number of reduction requirements, such as the removal of illegal trees or additional constructions. Moreover this protocol includes an estimated transfer fee, which depends on the work that is necessary to meet these requirements [*Arbeitsleistung*] as well as an estimation of the valuables on site, including trees and buildings, owned by the departing leaseholder. Sometimes officers postpone the fulfilment of these requirements through an agreement in the sublease contract. This amendment allows the gardeners to maintain, for instance, an

oversized hut but forces them to dismantle this hut at the termination of the lease (*interview, 06.07.14*).

These standards require further translation when the situation on site does not fit the foreseen proceedings. For instance, the procedure of adapting huts is complicated, when departing leaseholders leave plots with little valuables, but much reduction work to do. Mr Binder, head of a different colony describes this dilemma:

If this assessment of value determines that there are costs of €16,000 [£11,500]. Who has that? We don't get rid of the old plots. The departing leaseholder, we can sue him. We would even win that, but never see any money. So we throw good money at these bad expenses in producing legal fees. So we've said – also a hint from the lawyer – ... tell the newbies: 'look, you get the plot for free but you have to deal with the mess. And therefore we are generous with the timing. Half a year for the reductions is maybe a bit short-term, we give you more' (*interview, 16.08.13, my translation*).

Mr Binder attempts to work the law by adapting timeframes to appropriate solutions. Hereby, the dismantling of huts is determined more by the feasibility of solutions, i.e. what can reasonably be expected of each party than by its legality. This approach has entered into the allotment garden jargon as 'restoration in a socially acceptable manner' [*sozialverträglich zurückbauen*] (*interview, 18.06.14, my translation*). It stands alongside a range of other labels, such as the 'generational solution' [*Generationenlösung*], (*interview, 07.08.13, my translation*) — a term that describes the aforementioned cross-generational reduction through which huts are disassembled in a step-by-step procedure. The establishment of this nomenclature constitutes a first step towards an institutionalisation of the rules that have been built on site through processes of meaning making.

Moreover, the adaptation of rules builds on long-standing oral traditions, which are read alongside the BKleinG. Consider, for instance, the following translation of legal frames to local rules with reference to out-dated models. As Mr Berger, a president I previously introduced notes,

... for us, it's really different, because we are an old colony and run according to the 'Rixdorf model' [*Rixdorfer Modell*]. ... This dates back to when Professor Doctor Manegold

was district mayor. He said that these are old colonies, because we used to have so many permanent inhabitants from wartimes. And then you cannot say all of a sudden, 'well, we tear this down' and the small huts now need to have 24 square metres or something like that. So it's about the old building stock that you continue to maintain [...]

H.H.: And the 'Rixdorf model' determines the kind of reduction-work to be done? A kind of prolonged security?

Mr Berger: Exactly, yes, longer security (*interview, 10.07.14, my translation*).

After the interview, I found out that this model dates back decades and was never officially institutionalised. Yet, at least in Mr Berger's and other adjacent colonies this out-dated political idea is frequently mentioned, appears to enjoy local legitimacy and works to guide regulatory enactment. Thereby the translation of the law works through a strategy of discursive appropriation, whereby the law is rehearsed like a game in which the rulebook is not at hand. As the rules of this game are inscribed into local narratives their validity is spatially confined.

In the example of the 'Rixdorf model', the translation for which it was used helps the gardeners to widen their spaces of discretion, but the regulatory mechanisms that are found on site can also work to add further restrictions to those already implied in the law. For Mr Fischer, also a president of a colony, rules have a life of their own:

Well let's say the BKleinG sets standards for the size of the hut, yes. [...] and then there are the various regulatory orders of the city Berlin, mhm... and then there are one or two more standards for the city owned colonies. [...] and who knows what... a couple of small other things. But that's it! Essentially no more than a handful of regulations! [...] But everything else has developed in and of itself. That is such a group thing, a ... well an organic process of extortion! [...] There is still this rumour that the BKleinG has restrictions regarding the size of the hedges. There aren't any! Yes and how much there is to be planted and how. That also isn't there! Well, ... judges have interpreted the law, ... how the law is to be understood, yes, and from that the associations have created guidelines, but well, through their own transfer (*interview, 09.07.14, my translation*).

Just like the 'Rixdorf model', this 'transfer', to use Mr Fischer's words, constitutes an administrative procedure. But the 'organic process of extortion', or, the 'group thing', is a social process, in which rules are translated through normative systems, local rationalities and mutual dependencies. Relate this to my earlier discussion of Nugent's (2008) notion of

subaltern governmentality: as gardeners themselves enact regulations through communal discipline they develop internal mechanisms that are projections or, rather, translations of regulations authorised at the federal level. The enactment of regulations may at times be lax, gradually change its meaning or leave particularities aside, but in Mr Fischer's example, processes of translation create rules that gain currency on their own. For the researcher, these mechanisms create a good deal of confusion and uncertainty about the quality of the multiple guiding frames. However, what is crucial in the colonies is not the origin or universality of rules, but the extent to which they are successful in obtaining temporal legitimacy.

In sum, these processes of meaning-making through the translation of rules allow the setting priorities, bending rules beyond their range of validity or blurring the boundaries of regulations. They imply, in other words, not only the framing of legal orders into narratives that are more apt to fit the messy circumstances on the ground, but also the adaptation of their meaning. Together, they substantiate the claim that the everyday enactment of frameworks of order creates temporal and local legitimacy for competing forms of rule and thereby determines what is treated as the formal order in force and what comes to be subject to regulation.

Categorisation

A switch of scene shifts the focus of this chapter to the second governing modality through which outsized huts are adjusted, namely the work of categorisation. It also brings me back to the opening scene of this chapter, in which gardeners manipulated the workings of the law to renovate their hut of unlawful size. By discussing a similar case, this section explores how the enactment of frameworks of order in the allotment colonies allows gardeners to manoeuvre meanings by playing with the categories that are inherent in the law.

Mr Schramm, one of the allotment garden administrators I interviewed (25.04.14), had been

recommended to me as a bureaucrat, who knew the regulations well. He had long worked in the former Eastern part of the city and was now employed in one of the Western districts to oversee the managerial work of the allotment association. When I met him and spoke of my subject matter, I encountered open ears. He immediately alluded to multiple instances in which gardeners had adapted the law and negotiated a local solution for a regulatory concern. A particular paradoxical example concerns a case in which lessee took over a plot with the obligation to dismantle the extension of an allotment hut. This case allows me to illustrate the ways in which gardeners use the room for manoeuvre inherent in legal categories. In the course of the renovation the gardener came to realize that the wall that the extension shared with the allotment hut was defective and could no longer be used. As a result, from his perspective, the wall had to be built anew. After that, to Mr Schramm's indignation, the lessee went on to replace another wall and then another one until only a single of the original old walls remained.

From the perspective of the bureaucracy the renovated hut ended up being a new construction that exceeded the appropriate size. In compliance with standard procedures for dealing with such concerns the administration asked the district association of allotment gardeners to sue the offending owner. When the association met this demand, to the surprise of the district administration, the judge ruled in favour of the lessee. The court reasoned that the hut would have been impossible to use without a reconstruction and the work that had been done was hence to count as a legal renovation. For Mr Schramm, this "skewed argumentation" (*interview, 25.04.14, my translation*) ignored the fact that a new construction of that size would have never received a building permit — given it breached the specificities of the BKleinG. Thus from the perspective of the bureaucracy, the judge had fallen for the allotment gardeners' manoeuvres.

I wondered in the interview, if the unexpected ruling of the court was a matter of misinterpreting the definitional criteria inherent in the law, but Mr Schramm responded unmistakably: "What counts as a new construction is stipulated very clearly. More than 50 percent of

the supporting substance, and it's a new construction. This [the old hut] would have definitely been a new construction". But Mr Schramm hit the ball right back:

They [the court] also stated that the lessee could use this construction until the end of its remaining operational life. Well, I'm going to interpret this decree — the judge also has his possibility to interpret, right — I'm interpreting that the old hut would have maximally had a remaining lifetime of 10 years. The new hut can thus stand for 10 years, maximum until the end of the lease... Then, I'll stand on the doormat again to demand its demolition (*interview, 25.04.14, my translation*).

As Mr Schramm indicates, he is unwilling to accept the status quo for long. In planning to return to the plot to demand the demolition of the hut in the future he is interpreting the meaning of the judge's ruling. His reaction supports Jones' line of argumentation that I introduced at the beginning of this chapter. Bureaucrats, just as all others involved, are using the law 'as persons with commitments' (2011: 60).

The ruling had an epilogue: After the court had decided in favour of the tenant, the allotment holder rebuilt the fourth wall — although this remaining wall had been decisive in the court's decision not to classify the hut as a new construction. In this state, the ruling was no longer valid, but at the time of writing it remained to be seen, if the district association would be ready to engage in another court case. In this example, the application of the law is mediated through a play with categorisations, a "particularly important", as Blomley finds, and "rarely reflected upon framing technology" (2014: 140). For Blomley categorisation is a crucial process of meaning making as the fit of a category is "not always a yes/no question, but one that works outward from a prototypical core, allowing for degrees of association and similarity" (*ibid.*). As categorical distinctions are graduated and permeable, they are also open to struggles for definitional power. This definitional power is typically ascribed to the state and its power to dominate ideologies by framing legal categories in a normative way. In the present example, categorising not only performs crucial ordering work in a passive and top-down way (Barzilai 2008), but by mediating categories to fit their own benefits, gardeners also do definitional work when they adapt the law to situations on the ground. Similarly, in 'interpreting' sentences or enacting definitions like 'life-length', bureaucrats mediate the

meaning of the categories inherent in the law. As the next sections will proceed to show, this play with the framings inherent in the law shapes rationalities of ordering, establishes precedents and further institutionalises the orders that have been built on site.

Institutionalisation

As people perpetually adopt the law, formalities evolve. So much so is this the case that within reason and at times, some solutions that are found on site possibly become institutionalised. This not merely implies that the districts tolerate the adaptations of the colonies, but also that they officially back them up. In discussing such processes of institutionalisation this chapter turns from processes of meaning making in the adaptations of the law to their wider effects.

The institutionalisation of the infrastructure that has gradually been built in the gardens provides a good example around which to discuss this theme. Let me let me initiate a discussion of this development through an account of Mr Becker, an allotment garden administrator:

There was always a question about the water connection of the allotment huts. What about toilets? They all had illegal cesspits ... Those who lived permanently had a washing machine and a dishwasher. That is of course a massive environmental pollution. And then after years of to and fro it was somehow permitted that people built their water-collecting pit. ... It was somehow permitted! Same with the telephone! Everything that was conducive to permanent dwelling was forbidden. And then [the ban] was removed step-by-step — just like the telephone. I have worked through telephone requests, and you always had to name a reason. 'Well, my grandma is sick' [...]!' You can always find something! And then, they received ... a connection. And later *everyone* received a phone (*interview, 23.04.14, my translation, my emphasis*).

In the account of Mr Becker, the administrative steps that led to a comprehensive permission of water connections and telephone lines remain unspecified. However, it becomes clear that the granting of exceptions was too much administrative work. To further explain his comments, it is useful to account for the difference between material and formal

legality to which I already alluded in Chapter 3: A physical structure is materially legal when it follows the standards that were legal at the time of its construction — although these may have changed. A construction is formally legal, when a relevant authority authorised it and never terminated the permit (Mainczyk 2005: 242). In the GDR, the latter was frequently the case, as the housing department [*Wohnungsamt*] easily agreed to solutions that were formally illegal, but provided adequate housing solutions (*interview*, 09.04.14).

Moreover to understand how adaptations of the law become institutionalised it is helpful to note that the tradition of permanent dwelling that I explored in Chapter 3 has long created legitimacy for a number of illegal solutions. Even before socialist times, gardeners built infrastructures in the allotment colonies that were, at least in part, unnecessary to the garden. For instance, many colonies have been electrified since 1939. Today, electricity connections have become a norm that is rarely questioned, although the law does clearly not foresee this infrastructure. Similarly, water connections have become a standard with some colonies maintaining their own water supply through their own wells. “You cannot suddenly — 50 years later — change this”, I was frequently told (e.g. *interview*, 18.09.13, *my translation*), even though you can change a law, in particular when the enforcement a regulation has been neglected most of the time. Hommels describes this process as “a clash between a variety of new ideas about urban development and the multifarious viewpoints that are already embedded in a city’s existing urban structures” (2010: 139; Hommels 2005). The viewpoints that are built into the urban fabric prevail, even if legislations change. Legitimacy, not unlike the urban fabric that Hommels describes, is characterised by obduracy, which may explain the tolerance towards illegal infrastructures. Their former legitimacy renders possibilities thinkable and therefore reasonable. In this sense, the ‘unbecoming of legality’, is not finalised with the change of legislation, but must be understood as a process, in which persistent traditions continue to influence contemporary development patterns (cf. *ibid.*: 152). That the solutions that are found in adapting a law perpetually become institutionalised hinges upon this legitimacy.

To this topic, Mr Mayer, the president of a colony, adds a point about the reproduction

of tolerance that points to the ways in which adapted solutions of the BKleinG enter into frameworks of order. In response to my question about whether the bureaucracy continues to contest such infrastructural development, he describes a process of consolidation.

In the meanwhile it is consolidated — it is the case in almost every allotment compound that one says, okay, ... it is, not foreseen in the BKleinG but, when there's no harm, who is interested. And because of such an issue, no one's contract is cancelled today; ... No one will be bothered by this, on the contrary, meanwhile the local district says: 'See that everything is disposed of decently, that there is a container etc.' On the contrary, if there are plots without containers, they say that they [*the gardeners*] should finally install something. In the end it's about the environment (*interview, 18.06.14, my translation*).

Mr Mayer's contention describes the perpetual normalization of transgressions. As he notes, the institutionalisation of infrastructure depends on the offence it causes rather than on its illegality. Moreover, it is a matter of rationality. In the present case, not only the environmental pollution that the misuse of the law could imply, but also questions of practicality are conducive to the extension of tolerance of these illegal infrastructures. Although a standard practice that the administration supports, much infrastructural development is not legally defined, but settled in a standard lease agreement (*interview, 18.09.13*). This implies that most infrastructural amendments that I discussed above are automatically granted, although the gardeners are not warranted legal rights to demand them. The adaptation of an ill-fitting law to the ground thus not only leads to local solutions, but the processes of institutionalisation I described also show how these solutions gain currency and are included in formal statutes.

Rededication

These gradual transformations are situated within a broader trend of notable urban significance, which concerns the rededication of colonies that exceed the boundaries of the law. In the previous section, I already noted how the manoeuvring of meaning institutionalises local rules. This section seeks to show the effects of translation and categorisation on urban planning.

Some background is necessary to explain these effects. As noted in Chapter 4, the SachenR-BerG permitted Eastern dwellers to buy the property on which they had built. To recall, the property of the land in the GDR was publicly owned, while the gardeners privately possessed their hut, or, in many cases, a house on the plot. This conjuncture not only led to numerous problems regarding planning law, but also to a rededication of various allotments. Already in August 1995, the Senate Department of Finance [*Senatsverwaltung für Finanzen*] suggested that in cases of an accumulation of entitled buyers, it would be subject to negotiation, if these colonies could further pursue the purposes of an allotment colony (KEP 2004: 9). By asking if the privatization of plots had moved a compound into a different category of land use, the Senate Department of Finance thus called for scrutiny — in the terms of Santos (1987) — of the projections inherent in the law.

Various trials put this recommendation to the test (e.g. BHG judgment of 05.02.2004, III ZR, 331/02, juris; see also Kunert 1999 n/p). Between 2004 and 2005 a number of allotment colonies — particularly those with an oversized building stock — made efforts to be rededicated as housing areas (*interview, 18.09.13*). Most gardeners had inhabited these colonies for decades. For them, the adaptation of their ‘neighbourhoods’ to the rules of the West implied significant changes. Those who were officially recognised as permanent inhabitants suddenly had to pay a dwelling fee [*Wohnlaubenentgeld*] that by far exceeded their previous lease. This and other alterations not only led them to argue that they could hardly be classified as an allotment colony but also to refuse to pay their leases. Moreover, they were keen on expanding their current privileges, for instance by parking their cars on the plots (*ibid.*). They were, as one could argue, not interested in living up to the obligations of the law, and built on the projections already inherent in the law — or to turn things around — the differing circumstances in the colonies and used these differences as a leverage to manoeuvre their colonies out of the jurisdiction of the BKleinG.

When the city denied their attempts to be granted a different status, the resistant gardeners started paying their leases into a blocked account, thereby forcing the districts that lost

increasing amounts of money to claim their losses in court. In June 2004, a Federal Court decision framed these cases into national legal practice (BGH, judgment of 24.12.2003, III ZR 203/02, OpenJur, 10180). It authorised criteria according to which a compound was no longer to count as an allotment. Accordingly, the status of a colony could be negated either in cases where *more* than half of the plots were used as homes on a fixed date in 1990, or in cases where *less* than half of the plots were equipped with houses but the colony as a whole resembled a residential estate rather than an allotment compound (Mainczyk 2005: 244). As both of these criteria define vague directives, rather than rigid guidelines, and it was up to the legal appreciation of a local judge to assess the situation and decide whether the adaptation of these colonies to the law appeared to be a realistic possibility or if rather, the construction activities of the gardeners made it necessary to allocate a different land use category to these colonies. Mrs Braun, an allotment garden administrator in the former East explained how this procedure went about:

... we had an on-site inspection with the judge in the allotment colonies, in which he walked through the compound and checked: 'hut, bungalow, single-family house, hut, hut'. And at the end he counted and said, 'ok, it isn't one!' And in this way the district lost nine really large compounds (*interview, 19.08.13, my translation*).

The adaptation that would have been necessary to apply the categories of the BKleinG to the local site appeared to be unreasonable, so that the situation required the rededication of these colonies. Rededication relies, as Mrs Braun notes, on a case-to case decision and depends on the scrutiny and personal assessment of the responsible judge. The evaluation in the above-described case resulted in an amendment procedure in which the land use plan was changed so that the allotments finally became a residential housing area.

If this episode demonstrates the political power of the allotment holders, it also shows how their small-scale manoeuvres become pertinent at the urban scale. The residential constructions on the part of the gardeners appear to have no political force, but in these examples they became leveraged in a broader process of change. "Little things pile up," notes Povinelli (2011: 183), and here an accumulation of chronic but ordinary moments — 'quasi-events'

in Povinelli's (*ibid.*) terms — altered the status of the compounds. Even if these events, following Povinelli, 'fold into everyday routines' and never appear to have real effects, their aggregation conjures up change (2011: 14). To conclude, these effects bring me back to the ways in which the negotiations of frameworks of order I have discussed in this chapter — an agglomeration of quasi-events, reflect on an understanding of the notion of formality.

Conclusion

This chapter has highlighted how actors perform frameworks of order as they relate, bend or translate intersecting rules. Specifically, it has explored some of the qualities of these frameworks as well as the moves through which rules are enacted as people apply legal categories, reconstruct walls, count huts or go to court. I have structured my discussion of these processes around two modalities of governance. On the one hand, *Manoeuvring Multiplicity* has illustrated that regulations work by mobilizing and manoeuvring different frameworks of order. Governing, in this sense, means composing order out of relevant, conflicting or complementary rules. This implies the need for regulators to reach out to different 'latent' rules, for instance, when bureaucrats involve the regulatory apparatus of a different administration, such as the citizen centre. But these manoeuvres can also become a means to negotiate consent, for instance, when gardeners use the registration requirement to evince their compliance, however partial this may be, and simultaneously gain leverage to transgress other rules by staying put in the gardens. On the other hand, *Manoeuvring Meaning* has shown the bendability and flexibility of regulatory frames by exploring processes of meaning making and their effects. First, manoeuvring meaning implies that actors can shape frameworks of order by translating their abstractions to fit a problem at hand. Second, I have used this notion to explore how actors apply the law by manoeuvring their practices in and out of different juridical categories. Third, this chapter has illustrated how solutions that are found on site over an extended period become institutionalised. Finally, I have shown how these manoeuvres gain relevance at an urban scale, when actors alter land use plans by creating facts on the ground. In sum, these processes support the claim that the enactment of formal

statutes consists of multiple processes in which allotment holders craft, form or deform the meaning of frameworks of order.

This observation has broader conceptual consequences. For one, it implies that the rules of the books may specify the intended effects of the legislator, but that does not mean that they constitute formality. Rather, the mechanisms I have described lay bare what Mrs Braun described as the difference between the ‘contractual’ and the ‘factual’ in an interview I discussed in Chapter 5 (*interview, 19.08.13*). This difference highlights the gap between the normative illusion of regulatory frames and that what constitutes formality. For an analysis of governance, it is useful to avoid presupposing the effects of these frames and exploring their qualities through their inherent imaginations. Rather, it is necessary to focus on their operation in practice, as it is through their application that their contingencies play out. In this sense, the enactment of regulations through the social processes I have outlined hardly lies beyond formality. These are the processes that fabricate formality and therefore an understanding of the notion in terms of an abstract reality in the books misses the point.

In this sense, manoeuvring multiplicity and meaning constitute not something that is beyond these frames, but a crucial feature of the law and a necessity for it to be effective. As Barzilai convincingly writes, legal pluralism has understood controversies in law “as central to its life, seeing both obedience and resistance as deriving from interactions between a multiplicity of norms, interpretations and practices” (2008: 402). In a similar vein, this chapter has shown that frameworks of order are contingent and open to change so that their intended effects are tentative rather than fixed by the rules of the books. This brings me back to Datta’s (2012) frustration with the ways in which informality and illegality are frequently confused and the question about the relation between these two terms that I used to open this chapter. The processes of enactment described approximate an answer to this question: if we take formality to be the effect of regulatory processes and law as one frame that guides such processes, it is, in other words, one reference that structures the making of formality on the ground. The reversed equation counts as true for informality and its relation to illegality. The

contingent and open understanding for which this chapter has argued shows that informality is not so much the effect of doing something against the law, but of doing something with it. Informality is then one possible outcome of applying the law.

This perspective brings me back to concerns about agency and contestation, since it necessarily raises questions about the legitimacy of negotiations and the power differentials between negotiating actors. In adapting the rules of the books, individuals gain leverage so that the enactment of rules themselves appears as a place for agency. If this engagement may de-centre the imperatives of regulations, it neither demands changes in the structure of political regimes, nor does it alter the power of institutions. Still, that does not mean that the modalities of manoeuvring I encountered cannot alter the status quo. The depicted interpretations, translations or assemblages of rules by individuals who are pursuing their particular aims highlight the limited power of abstract written frames. In the situation I have described, statutory norms hardly show much effect. Given the absence of sustained engagement or the lack of resources of the administrators, alternative or adapted rules will continue to govern everyday practices.

Together, these claims underscore a central step in the overall argumentation of this thesis: the notion of formality (and with that the notion of informality) I contend throughout cannot be understood merely by reference to institutional orders or written statutes. Rather, it must be seen as the effect of a process that is perpetually constructed in negotiation. Formality, in other words, is neither a given condition nor an abstract reality that exists in the books, but comes into effect only through its continuous enactment.

This preliminary conclusion brings me to the theme of the next chapter: In face of the ambiguities of frameworks of order and the openings I have found in regulatory processes, it appears necessary to clarify the boundaries of formality. How do actors in the field differentiate legitimate from illegitimate order, or, formality from informality? These boundaries, I would argue, are established in the enactment of the orders themselves through social mechanisms, which the next chapter describes.

7. BOUNDARIES OF NEGOTIABILITY

Mediating Interference, Circumscribing Transgression

Approaching the typical Berliner allotment garden a visitor crosses a parking lot alongside a sandy road. In front of the allotment, a decorated entry gate exhibits the colony's coat of arms, announcing a crossing of territory and an alteration of rules. Behind the gate, at a distance, a notice board displays the responsible agents on site. Having overcome the impression that one might not be allowed in, the gate can be opened from the inside by reaching through iron bars. Upon entering, the ground is lower than in the street. Tucked away from the passing neighbour, high hedges shield the plots from the awkward view of the passers-by. Signs warning of the 'vigilant neighbour' adorn most gates and make it hard not to feel intrusive. As places of withdrawal allotment gardens require boundaries, but the ones I have described are also an expression of the mechanisms that differentiate which transgressions are accepted and what crosses the line. These boundaries of negotiability are the theme of this chapter.



Figures 7. & 8. Hedges in allotment gardens. Source: author

In the previous empirical chapters, I explored formality in relation to the constellations of governance through which it is built and the frameworks of order on which it depends. In doing so, I used the theme of negotiability to argue that formality is perpetually constructed in interaction and through this understanding advanced an approach to formality that is focused on its enactment in practice. Empirically, this theoretical discussion illustrates a situation in which all concerned with allotment gardening are aware of transgressions in the gardens, but in which these transgressions are tolerated as long as a certain balance is maintained. The negotiability that characterises this situation raises important questions about the boundaries of this tolerance. To discuss these boundaries this chapter turns from the making of consent to moments of controversy and disruption. On the one hand, I explore these boundaries in situations in which people do not adhere to the rules. Which infringements undergo close scrutiny? On what does interference depend? And how does consent around the legitimate room of transgression break down? On the other hand, I consider the processes through which this compromise is secured. What strategies do residents and bureaucrats employ to avoid interventions in, for instance, informal dwelling practices?

To approximate answers to these questions, this chapter works to define the qualities of various complementary mechanisms. These mechanisms, which I understand, following Tilly, as delimited ‘classes of events’ “that operate quite broadly but combine locally as a function of initial conditions and adjacent processes to produce distinctive trajectories and outcomes” (2008: 9) provide, again following Tilly, an analytical tool that makes it possible to study both the ‘uniform immediate effects’ as well as their ‘aggregate cumulative and longer-term effects’ (2001: 25). Although these mechanisms are based on single events, I analyse them in the conjuncture of broader processes in which they take place. They work though the constellations and frameworks that I previously described, but they are also dependent on people’s capacities and resources, as well as the rationalities and norms that guide their engagement.

My observations point to three sets of mechanisms that structure the subsequent sections.

First, the aesthetics and materiality of the allotment huts are considered as technologies that determine the boundaries of tolerance. The empirical material I use in this chapter illustrates on the one hand how the huts become a means to regulate informal dwelling. On the other hand I show how gardeners keep their overstepping of rules out of sight by hiding heating systems, maintaining visible order or cleaning up public alleyways. Thereby, the enactment of rules is guided by the visibility of transgressions and an aesthetics of order. Second, limits of formalities depend on numerous rules of coexistence in the colonies: as I seek to show, allotment holders keep transgressions internal or steer public imaginaries by mediating what comes into view and what is kept out of sight. I explore these themes with reference to the gardener's attempts to cover legal offences through censoring discourses and arranging public events. As this discussion shows, in these processes, it is not the overstepping of the law but of the boundaries that have thereby been established, that becomes subject to regulation. Finally, I use two cases of below-standard housing to discuss the boundaries of toleration in relation to the standards along which they are drawn. This section illustrates how people cross the line because they do not adhere to the unstated rules that the previous sections explored, thereby triggering a rigid enforcement of national law.

In sum, these mechanisms work to widen, fix or protect the boundaries of tolerance and construct legitimacy around a carefully negotiated status quo. Rather than the definitions of the law or other statutory frames, these boundary mechanisms determine the order that is enforced on site. In other words, I argue that actors shape what is or what is not subject to regulation and thereby help to define a realm of formality in everyday practices. The next section starts to justify this claim by introducing a first set of mechanisms that has evolved around the aesthetics and the materiality of the house.

Aesthetics and Materiality

While researching in a remote district in the West of Berlin, I encountered a peripheral com-

pound with numerous oversized constructions and a resident, Mrs Müller, who was willing to answer my questions. Mrs Müller used to be a teacher of religion until she changed careers to open up a sauna. But the financial burden of her new business forced her to reduce her living expenditure. In order to save on rents she leased a plot in the colony, on which was situated a sizeable two-storied hut that she bought for 50,000 German mark (DM) (approximately equivalent to 25,000 Euro or £18,524). Certainly, for German standards, her home was small, but it was fully equipped and all rooms offered beautiful views into the surrounding gardens. Mrs Müller's account of how she came to live in an allotment colony not only provides some background on the ways in which the colony developed, but also allows me to introduce the idea that the boundaries of toleration hinge upon the material infrastructures and the aesthetics of the gardens.

To get a garden was really difficult, but I had a partner whose ex-mother-in-law lived here permanently and he instantly planned remodelling [the hut] into a house.

H.H. Did your house exists as present?

Mrs Müller: No, none of these houses, they all grow in the winter. It was quite a sizable house, I think more that 74 square metres, already quite big. I then ... well, I secretly expanded ... made [it] higher. And this here is an extension. You can see it here, this was the old entrance and this all is an extension, the roof has been pulled forward and the sheds in the back have been integrated into the house. But everyone did that. It was very normal here (*interview, 13.09.13, my translation*).

I interviewed Mrs Müller in her allotment hut. The ground floor accommodated a tiled bathroom with a toilet and a bathtub, a colourful decorated kitchen and a bedroom with a king-size bed. The attic housed a guestroom and another bathroom. However, when I met Mrs Müller, the normalcy of her everyday arrangements and the circular expansion of her house had recently been disrupted. In fact, she was just about to move out, because she was unable to resolve a conflict that arose within the colony. When I asked her what type of trouble could have come to have such severe effects, she shared her worries.

Yeahh..., I was in trouble [*laughs*] ... trouble with a neighbour. But he moved away. And in trouble with the district association. I had to remove my gas tank last year [...] one isn't supposed to have heating. Other neighbours have also been reported ... by this guy who lived here ... and they have also moved out ... He threatened all the neighbours and then

... as a thanks to us he reported everyone to the district association, because we lived here illegally (*interview, 13.09.13, my translation*).

Mrs Müller was not playing by the rules. The response to her rule breaking is a story of neighbourhood relations, questions of condoning as well as relationships of trust, but it also concerns the regulation of dwelling through the infrastructure of the house.

Informality is frequently defined through a rough but caring look or the makeshift character of the house (Brillembourg & Klumpner 2005; Cruz 2009). For Datta, “informality can ... be morphological” (2012: 7); for Tonkiss, “new myth of marginality have emerged around the aesthetics of the informal” (2012: 58); whereas Dovey and King ascribe a certain ‘typology’ to informal settlements (2011: 13). If this work treats materiality and aesthetics as an expression of legal status, this section proceeds to argue that materiality and aesthetics hardly define informality in any sensible way. Rather the building and its aesthetics become a technology of negotiation and an object around which the boundaries of legitimacy are drawn. Specifically, Mrs Müller’s story highlights two mechanisms of boundary work: in the first, the infrastructure of the hut becomes a means of negotiating enforcement; in the second, the aesthetics of the housing patterns the enactment of rules.

Material technologies

To discuss the ways in which boundary of tolerance are drawn through the materiality of the house, let me return to Mrs Müller’s story. To understand the significance of her narrative, it is crucial to note that the district association did not terminate Mrs Müller’s lease; they would not have had any grounds. However, they prompted her to dismantle the gas tank that she had been using for heating over the past 16 years. Her only alternative to this cheap but dangerous heating system which caused various huts to burn down (Schnedelbach 2005; Körner & Schmalz 2014) appeared to be an electric heater, for which she could not afford the costs. As Mrs Müller’s use of the hut as a home was contingent upon the gas tank, this heater was

not merely an infrastructural asset, but an object that restricted her possibilities to dwell on the plot. Guggenheim describes buildings as quasi technologies — technologies that are unstable and operate “only under very specific circumstances and for specific users” (2010: 174). They are, as he notes, not “a properly technological object” (2013: 448) that produces certain “reproducible outcomes because of their inbuilt features”, but technologies whose “relationship to their social function is unclear” (*ibid.*). In Mrs Müller’s case, the building becomes, in this sense, a technology that regulates its use.

Switching scenes from Mrs Müller’s colony to the office of a garden administrator allows me to further define this idea. In April 2014, I interviewed Mrs Richter, who had prepared a number of cases to explain how she would go about her interventions to deal with the transgressions in the gardens. One particular interesting example continues my previous discussion in that it highlights the ways in which houses become regulatory technologies. In this case a permanent dweller died and her grandson inherited her oversized hut (see Figure 9). He was also keen to assume the right to dwell, like his grandmother. Legally speaking, this right provides a paradigmatic example of an ‘egocentric law’, a law that defines its jurisdiction according to “personal and particularistic features” (Santos 2002: 432), as the grandmother’s right to dwell was bound to a specific person (rather than the building) and was thus not inheritable. Moreover, the hut had only a partial building permit. In short, the grandson’s inheritance was bound to a contradictory legal situation.

Let me briefly explain these contradictions so as to provide the necessary background for understanding how the house was used to negotiate consent around the boundaries of acceptable standards. After the death of its only legal resident the house was no longer authorised for the purpose of dwelling, but given its extended size it was also not suitable to serve as an allotment hut. The death of the grandmother had caused, in other words, a situation in which the state intervenes in the liberty of a person to use his or her property in the only reasonable way. However, in these cases administrations can grant exceptions: as a matter of bureaucratic judgement, the dwelling permit can be inherited, if the conditions of the house

are taken to be adequate (*interview, 09.04.14*). These contradictions thus require the bureaucracy to redefine the boundaries of accepted tolerance on a case-to case basis.

So the negotiations began. Given the dilapidated standard of the house, the bureaucracy was neither willing to grant the dwelling permit, nor to tolerate the oversized construction. Moreover, the bureaucracy was in a good position to demand a partial demolition, as the house had been extended without permission.

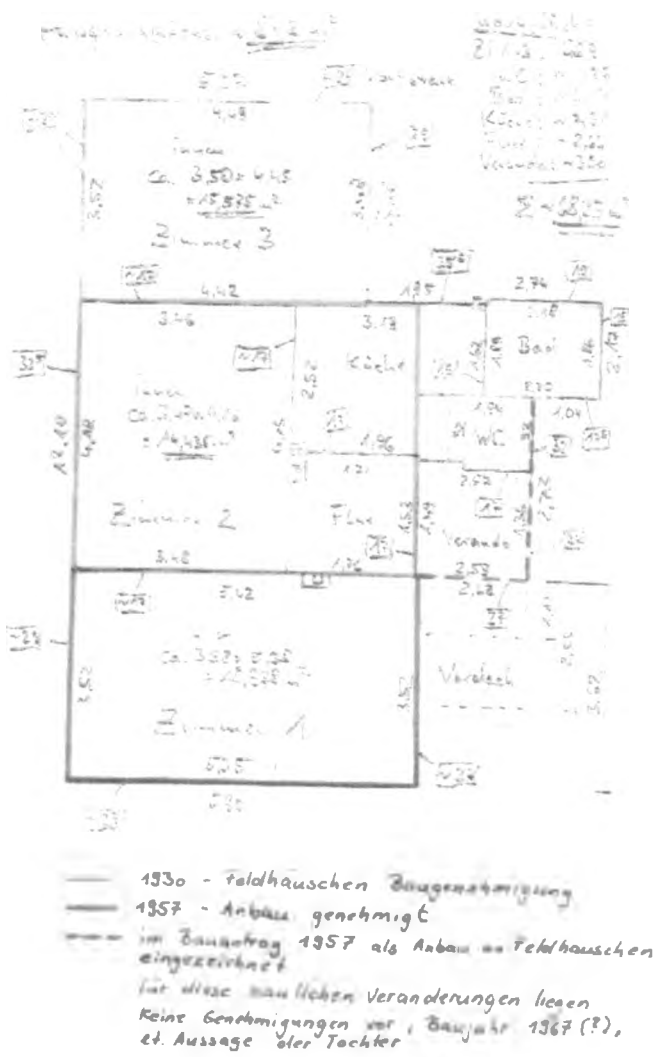


Figure 9. Photocopied plan of run-down allotment hut. Source: Interview 09.04.2014

The plan (see Figure 9) I was given illustrates how the house grew over the years. Although a hut was authorised in 1930, and an application for an annex was filed and built in 1957, a further extension was erected in 1967 without any official permit.



Figure 10. Photocopied image of run-down allotment hut. Source: Interview 09.04.2014

Consequently, the administration demanded the demolition of at least this last bit of the house. Mrs Richter described her claims:

This was a point where we said, well, ... he has to decide. Either he takes this [the 67' annex] or the sheds, although the sheds have building permission, but he cannot have it all, either or. ... Because a dwelling permit — given the state of construction — we just cannot grant. And he then decided: OK, he will remove both annexes, but keep the sheds, because as a gardener he can make good use of them (*interview; 09.04.14, my translation*).

If the building becomes here the technology to regulate dwelling, the workings of this technology still remain negotiable, or, rather, dependent on the decision-making on part of the administrators and the grandson.

The drawing of boundaries is not an arbitrary procedure. Mrs Richter even obtained the help of the building administration [*Bau- und Wohnungsaufsicht*], because she felt that she could not evaluate the condition of the house. As she noted, “I mean, of course, I see how it looks, but to evaluate the condition 100 percent, I cannot and hence I ask the colleagues..., because they have the expertise”. Why had the grandson not anticipated this procedure? Mrs Richter responded:

Let's put it this way. They had already started to renovate, but the fact is, they [the building administration] not only examine what it looks like, but the basic conditions. I only see what it looks like, but the colleague... can see that ... there is only simple flooring; that there is no insulation; that there are only simple windows, the entire electric connection... everything was not according to standard and they see that (*interview; 09.04.14, my translation*).

The grandson's efforts had not been sufficient to trick the bureaucracy.

If the case shows how the materiality of the hut is used as an object around which the boundaries of legitimacy are drawn, these boundaries are defined through a normative definition of adequate housing standards. Moreover the idea that a more substantial renovation effort could have strengthened the grandson's possibilities to negotiate also indicates that material technologies are objects of negotiations that not only work to delimit, but also, potentially, to widen a realm of tolerance. Such efforts, in which gardeners mediate the intervention of the bureaucracy through a superficial alteration of material technologies are the theme of the next section.

Mediating through aesthetics

In the previous example, the material standard of the allotment hut had been the decisive criterion in terminating a housing situation. Returning to the story of Mrs Müller allows me to expand this claim, not only because it provides an example of the ways in which gardeners themselves use the fabric of the house as a means of negotiation, but also because it shows how the aesthetics of the hut becomes a mediator in the negotiation of tolerable transgressions. As Mrs Müller noted, she was not the only dweller in the colony who was in trouble with the district administration.

My neighbour put through in court that she... she had to demolish her greenhouse. But she is allowed to have a winter proof tent. And then she just covered the old construction with a tarp. Clever, right, for an 80-year-old (laughs) ... at least she pushed through the tent (*interview, 13.09.13, my translation*).

This was not the first time I had come across this construction. The 'winter proof' tent kept following me around. In April 2014, I wrote in my notebook:

Visiting a colony in which I want to lease a plot: a dark wooden hut and several additional sheds are surrounded by numerous conifers. All constructions are dilapidated - taking

them over looks like too much work. I approach the neighbour to introduce my study and myself. He invites me to enter the free allotment through a hole in the fence to his adjacent garden. [...] Back on his grounds we briefly chat: 'We move out in the summer', he tells me, 'the neighbour on the other side too'. Was I planning on dwelling? ... I would not need to worry about that, the head of the colony lived here too. [...] Still talking, he tours the garden: He would be happy, if I would take the allotment. But only when we arrive at the back of his plot, I realize why. His already spacious hut extends into an annex - presumably a living room — and a hidden secret. This construction, he explains, was an illegal extension. Every time the district association showed the adjacent plot to potential leaseholders, he needed to hide this construction under a plastic tent. The plastic-tent would be allowed and provided a good means to cover the house underneath (23.04.14).

In both examples hiding is blunt, works through superficial means and is easily discernable. The same could be said about saunas in sheds, backyard extensions or apparently removable fireplaces. Most solutions are obvious; some are permanent, while others necessitate continuous maintenance. In all of these cases, it remains unclear, if these means do succeed in distracting the administration from the (still) obvious legal violations or if officials simply overlook them wittingly. Such activity, it seems, not only manages bureaucrats' ability to see, it also enables them to knowingly oversee so as to justify non-interference.

As an effect or possibly just paralleling this reaction, it seems as if regulatory avoidance involves constantly striving for orderly self-representation on the parts of the gardeners. Most allotments can be characterised by a near obsession with appropriate looks. Allotment holders keep neat order in mowing their lawns, they cherish their weed free flowerbeds and concrete dead-straight tracks. This superficially visible order that dominates the gardens, frequently stands in contrasts to the legal transgressions I have described. Following Ghertner (2010), this contrast could be described as 'a rule by aesthetics', a term he uses to characterise the delineation of formality by way of physical appearance. Ghertner derives the notion from a study of Indian governance, in which city-officials see formality in the orderly looks of the (however illegally) 'planned' city while they designate the jerry-built developments of the urban poor as informal, primarily by the quality of their looks. In both cases, the legal status of these constructions is more or less negligible (*ibid.*). But the apparent order of the

illegally planned city makes it possible to avoid the enforcement of rules.

Perhaps, this reference goes too far. By no means do I want to suggest, that gardeners keep neat order because everyone secretly crosses the line. Rather, in this case, a different 'rule by aesthetics' could be learned: order points towards legibility, and legibility prevents intervention. Conversely, not living up to the standards of order, might possibly become a reason to intervene. In other words, a more or less skilful hiding of legal violations through the materiality of the house marks the negotiation of tolerance as allotment holders construct unauthorised amendments, illegally reshape their floor plans and overstep planting rules.

Together these mechanisms have shown that the boundaries of transgressions depend on material standards as well as on physical appearance. Moreover, what differentiates the interventions I have discussed in the previous two sections is not only the quality of the hiding or the superficiality of renovation efforts, but a question of occasion. The renewing of building permissions prompted interventions, as this event required closer scrutiny. Consequently, a close scrutiny can be avoided, by avoiding possible events. In the next section I discuss the mechanisms that further such avoidance.

Rules of Coexistence

The second set of mechanisms that actors use to negotiate the boundaries of consent concerns those faultlines of tolerance that are determined through the rules of coexistence in community life. Much work in urban studies has considered the topic of community boundaries and pointed to the multiple relations through which these boundaries become established (Blokland 2012). For instance, Blokland and Savage note that "community ties do not form within isolated bounded spaces, rather boundaries are drawn through dis-identifying with other locals" (2008: 12). Rather than exploring the spatial dimension of boundary work

that Blokland and Savage refer to, my interest in this chapter is focused on the community work that protects or widens the boundaries of tolerance. Thereby internal boundaries are drawn in which gardeners dis-identify with certain practices in order to widen their realm of transgression and stabilise the uncertainty of their dwelling situation. I illustrate three rules of coexistence that concern the ways in which gardeners maintain quietude around transgressions, forge cooperations and delimit the access of wider publics.

Quietude

First, stabilising the status quo depends on quietude. Let me return to the case of Mrs Müller to illustrate this claim. I had asked Mrs Müller about others gardeners who dwell in her allotment colony. It is instructive to read her reply with a focus on the disruption of quietude.

I can tell you that exactly [who lives in the colony]. We have exactly 65 inhabitants. It's simple to see that if you come in the winter and count the garbage bins ... The district association had always tolerated that, but presumable they have to follow up when they receive such a charge (*interview, 13.08.13, my translation*).

Clearly, Mrs Müller was not the only one who disrupted the order of the colony. But why was she sanctioned while others were able to stay?

One way of answering this question is to consider her legal situation. Unlike some of her neighbours, Mrs Müller simply lacked the necessary documents, to show that her gas tank was authorised. But key to the end of her tenancy was the creation of a nuisance: Mrs Müller's dispute ended in a TV report, and brought officers into a situation in which they could no longer afford to ignore the denigrations of her neighbour. As she noted, "at the time, the newspaper was here. Sat 1 and Pro 7... no it must have been RTL [major German entertainment channels]; they shoot here and it was on the Internet — it was a big fuss! — so then the district administration went to see who is registered here. It was all a big fuss!" (*interview, 13.08.13, my translation*) The issue had become too noisy. Moreover in turning her individual

trouble into a public affair, she crossed the boundaries of local consent in which transgressions could have been managed internally. Officials themselves might not have wanted things to be visible or public, but to disrupt the game forced them to act. If tacit consent depends at large on the appearance of 'peace' that is kept in the colonies — no matter how peaceful it is — conversely too much noise may foster rigid enactment. In this line of thinking, quietude widens the boundaries of tolerance.

The story of Mrs Müller would be incomplete without an account of corruption. Mrs Müller offered me a long list of people in similar situations, who had never needed to dismantle anything, because they formed a part of what she referred to as 'the gang'. But Mrs Müller was sanctioned because she created further noise by getting in trouble with 'the gang'. To be granted support against her neighbour, Mrs Müller distributed a petition.

We collected signatures here in the colony; that we wanted him gone [her troubling neighbour]. ... It was a plea to the district association, to terminate his lease... but the district association didn't even react. They just kept drinking their Fürst Bismarck [a German korn or schnapps] over there in the other colony. The head of the district association is there in the neighbouring colony. They have a big clubhouse and a bar where he always hangs out — you know the neighbour who isn't here any more (*interview, 13.08.13, my translation*).

Part of the 'noise' that I would say triggered her rigid enforcement was to proceed action against a network that appears to present big players in the governing constellations through which people negotiated consent. On a side note, the idea that a group of gardeners in an allotment colony could demand the eviction of a neighbour is an interesting case of vigilantism. But the actions taken by the gardeners were of limited success.

Mrs Müller not only sought the support of her neighbours, but also that of the city administration. She saw that all her suspicions about 'the gang' that had turned against her were evident:

I had an appointment. ... the town hall ... has an Anti-Corruption Directorate. A friend arranged an appointment. And when I arrived the local mayor came out of the very same office — so I left right away. ... when [the district mayor] came out of there, he had known

it. He had instructed everyone, ... [they are] all one gang (*interview, 13.09.13, my translation*)!

Although, I frequently came across accusations of corruption, I was in no position to trace or prove a number of related questions. But it would similarly be naïve not to account for the numerous relations of patronage on which garden dwelling depends. At least for Mrs Müller herself, her heavy-handed treatment goes back to her position as an outsider of this 'gang'.

If playing the game hinges upon the support of networks, or, at best, 'the gang', network relations become crucial because they help to keep transgressions under the radar. When a rigid enactment of regulations depends on quietude, this support is an important asset. This relation opens up important questions about the relevance of cooperation for shaping the boundaries of toleration, which I discuss in the next section.

Cooperation

Second, the rules of coexistence require cooperation. When gardeners lose support networks or individuals step out of line, it remains difficult to hide the unauthorised use of the hut for dwelling purposes. In the previous example, Mrs Müller was no longer cooperating, but typically colonies intervene before trouble gets out of hand. These interventions follow the rules of coexistence that help to avoid the intervention of allotment administrators and to secure their consent. These efforts work through cooperations within the colonies as well as with externals.

On the one hand, a focus on the relations within the allotment colonies shows how gardeners widen the boundaries of toleration by exerting pressure to conform. A case of a colony with numerous outsized houses illustrates how precautionary measures ensure that gardeners follow the rules of coexistence. In this well-kept compound most allotment huts were apt for dwelling and endowed with building permission, but few of their owners held dwelling

rights. According to this legal position, a remarkable high density of unauthorised occupancy characterised the site. I asked two permanent inhabitants in this allotment colony to describe how they counsel their fellows when they move into the colony.

Mr Koch: Even before someone gets a new allotment ... they are...

Mrs Wolf: Yes, they are exactly guided and they have ...

Mr Koch: ... inoculated!

Mrs Wolf: Yes, inoculated, inoculated, in any case, ... but it is the case that most have these questions [about appropriate conduct] anyway.

Mr Koch: We also say very clearly what we tolerate and what we don't.

Mrs Wolf: Exactly!

Mr Koch: And those who don't accept that - we don't want them here (*interview, 16.09.13, my translation*).

While I've previously spoken of tacit negotiations, the instruction of newcomers appears to be more explicit. At least the notion of 'inoculation' implies making sure that new inhabitants do not learn through a sudden infection. The discussion also implies that the tacit consent of all parties to negotiation relies not only on the cooperative agreement of all involved, but also on the exclusion of those who are unwilling to comply with the arrangements that are built on site. In this tacit arrangement, the role of the allotment holder is to respect and display adequate conduct on site. Thereby the lines along which the boundaries of tolerance are drawn are defined, as Mrs Wolf notes, by a collective 'we', rather than gardening statutes or national laws.

On the other hand, the external relations that gardeners' build to forge consent shape the boundaries of tolerance. This implies inviting public officials to selected occasions. Consider Mr Koch's narrative of his colony's strategies to maintain good relations with the political officials of his district.

Ever since [they won a legal case against the bureaucracy] we get along well with [our district mayor], we get along real well and on the quiet he also knows what's going on here. [...] He would never admit that publically, for heaven's sake! But he knows what's going on and he also knows that there is order and peace here and that we don't make trouble. And as long as we don't cause any difficulties and don't exaggerate, it's not a problem. ... We have also invited [the district mayor] annually to our festivities, also the councillor for

construction [*Baustadtraf*].

H.H. and what does he say [concerning your residency]?

Mr Koch: In fact, he sees it the same way (*interview, 16.09.13, my translation*).

Here the boundaries are clearly stated. Gardeners cannot exaggerate, and although the district mayor 'knows what's going on' he cannot publically admit this knowledge. To prove that the allotment holders live up to the expected order, it comes in handy to host public events. Having politicians on their side is crucial to protect the status quo.

In sum, these rules of coexistence shape the boundaries of tolerance as they help to exert pressure to conform to internal rules, to forge external relations and to present the colony as an orderly space.

Access

A third rule of coexistence that works to maintain the status quo concerns the mediation of access. Let me introduce this idea by picking up an earlier quote. When asking Mr Koch about his preventive efforts, he stated that "those who don't accept that - we don't want them here" (*interview, 16.09.13, my translation*), thereby referring to an agreement to the internal rules that guide the colony. His contention links the theme of cooperation to a notion of access. If, in other words, the previous section already alluded to some of the ways in which allotment holders mediate relations to politicians, this section is concerned with the ways in which allotment holders regulate the involvement of the wider public.

These mediations can be described as a twofold strategy: gardeners avoid some instances of transgression becoming publically known, while making other events visible that ought to be publically known. This movement not only implies retaining control of outsiders, visitors, researchers or others who cannot be trusted to consent to the tacit rules of the game, but also the strategic deployment and censoring of imaginaries that shape public conceptions.

On the one hand, this effort aims at keeping public knowledge of transgressions at bay. Consider, for instance, Mr Koch und Mrs Wolf's discussion about their openness towards others. When I asked them if they would talk to others about their living conditions, Mr Koch responded:

We spent a lot of time.

Mrs Wolf: We say, we are 'out' a lot, particularly in the summer — logically.

Mr Koch: Yeah, but towards others... the intimate friends know it.

Mrs Wolf: Exactly!

Mr Koch: But others, it's not other people's business.

Mrs Wolf: No, it's nobody's business. I agree (*interview, 16.09.13, my translation*).

Their discussion speaks of a reluctance to make their dwelling situation public. Both agree that their place of residence is not of interest to others. Differently put, they hold back from involving the wider public.

As an outsider to the life of the colonies, I frequently experienced such boundary work myself. In various colonies, I was immediately told off or asked about my intentions when attempting to photograph houses. Similarly, if most allotment holders were interested in my project, I also noted that some were closing up — possibly as a matter of precaution — when I was talking about the topic of my thesis. For instance in June 2014, I encountered a gardener who was born in an allotment in 1940 and had spent his entire life residing in the colony without a dwelling permit. He had generously promised to organize a get-together of the old permanent inhabitants of this particular compound. Yet, when I returned as we had agreed upon, he had talked through the idea with the president of his compound and I was told that the meeting could not be held. As they noted "they could not yet divulge all their secrets" (*fieldnotes 14.05.14 and 05.06.14*).

Following the rules of coexistence that this chapter has described actors remain under the radar by avoiding too much noise around the transgression of rules. Moreover, access is restricted to generate stability. But according to these rules gardeners also foster the visibility of an orderly image of social life in the colonies in order to show that they live up to an

acceptable standard. This standard that marks a crucial line that determines what is tolerated and what is not is the theme of the next section.

“No, That’s Just not Acceptable!”

A final set of boundary mechanisms I consider evolves around questions of acceptable standards. More precisely, it concerns the ways in which actors draw boundaries along the lines of what they consider to be appropriate living conditions. These mechanisms are most harmful in the lives of people and most troublesome to discuss, because they concern those cases of allotments where dilapidated housing conditions exist and thus touch on questions of poverty. In discussing two such cases, this section considers how actors push responsibility out of their sphere of influence. Thereby my material illustrates how an intended action, namely to maintain a certain standard of order, is foregrounded whereas its unintended effect, namely the consequences of enforcing these standards on the lives of those who are excluded, remains beyond the realms of consideration. But my discussion neither aims to point at the wrongdoing of individuals, nor to raise questions of moral philosophy. Rather, it seeks to link the drawing of boundaries to the norms that govern enforcement in practice and thereby trace a number of thorny issues about exclusion, as well as community and state responsibility.

The standards that are used to negotiate boundaries and the ways in which they are performed were themes that weaved through much of my interview data. What finally incited me to consider them in more detail was a case of three Romanian seasonal workers, who lived in an allotment compound, but had to leave when the gardening association decided to end their lease. I first came across this case in a discussion with Mr Fischer, a thoughtful president of a colony on the outskirts of the city. His compound stood out through its rather developed housing stock, but although the residential use of these houses was certainly

the norm over the summer, Mr Fischer made sure to clarify that his was not one of those colonies that were normally inhabited throughout the year. Hence this case of permanent inhabitation confronted Mr Fischer with a worrying exception. He sketched the outlines of the situation.

And now we also have two Romanians living here. Or three. They are seasonal workers ... that is also something, where I would say, no, I don't want to have this. No slumification [*Verslummung*], right. ... this doesn't have to get established, right? It's an absolutely insanitary arrangement that three men are living there. ...

H.H.: And is it the case that the plot looks deteriorated?

Mr Fischer: Well, when they don't have a shower and nothing to wash ... we don't know how they are doing it with the toilet and so on...

H.H.: Have you talked to them?

Mr Fischer: No, they don't speak German, let's put it that way (*interview, 09.07.14, my translation*).

Mr Fischer's contention highlights a fear of consolidation. He does not want the conditions in the colony to move towards 'slumification', which he relates to the 'insanitary' arrangement of the three men. An uncertainty about the actual circumstances of the living situation runs through the description, which does not clarify if their environment really looks deteriorated. But although he evades the question, Mr Fischer appears to be sure that the living arrangements of the workers lie beyond a social norm that needs to be protected. His fear of slumification echoes a wider concern. In fact, around the time of my fieldwork the notion of 'slumification' had meandered through the press to describe a couple of cases, in which a larger number of people — also of Romanian nationality — were living in allotment gardens that were awaiting eviction (Mihai 2013; Steeger 2013). In linking the case of the Romanian workers to these precedents, Mr Fischer's use of the notion abstracts from the individual case to construct their dwelling conditions as deviant.

Mr Fischer's predicament was partly due to resistance in the colony. He reasoned:

Well, it's really difficult! ... On the one hand there is this threat of *slumification*, and as these social structures form, they meet absolute resistance.

H.H.: How did the neighbours respond to these men?

Mr Fischer: Hostile, ... dismissive, ... critical, right? You have to say... honestly, I have to

say, it's real difficult. You cannot really talk to anyone about this (*interview, 09.07.14, my translation*).

The case must have been widely noted, and following from his statement, the strangers were not received in any open way. As they did not partake in the community life of the colony and remained strangers due to language barriers as well as the illegibility of their living arrangements, they could not build on any possible cooperation or solidarity. In other words, the workers did not play the German game and were faced with an internal border that prevented them from learning the rules of coexistence that are crucial to know in order to dwell. Moreover, he indicates that the case was not openly discussed, which left Mr Fischer on his own. He was forced to decide if he needed to react or could simply ignore the plot. The situation thus gives rise to an uneasy tension between the vulnerability of the men and his individual decision-making power that is hardly legitimised in a democratic way.

Further on in the interview it also became clear that he had already notified the district association in an attempt to clarify the situation. The association would probably proceed, he pondered, by terminating the contract and clearing up the plot. Knowing how difficult this process had been in other cases, I asked him on what grounds and how they had proven the case. Interestingly, he responded: "Well, that ... was the dwelling... they are there, right, they are there. Well, it's not the case that they aren't there (*interview, 09.07.14, my translation*). Despite all my previous contentions about the inability to prove dwelling, here the possibility of eviction stands out. It might be the case that 'they are there', but others are similarly there and mostly they stay put. However, as he previously indicates, the workers had not paid the lease, which, I assume, gave the administration a reason to terminate the lease. The workers had not known how to play the rules of the game, because these rules remain unstated, until you cross the line.

As the reasoning behind his decision points to some of the rationalities that determine how actors draw the boundaries of toleration, it is interesting to quote Mr Fischer again at length:

Does it have to be tolerated? That's what it is about, right? It's just incredibly difficult. Should one have found a different solution? Please understand, it's an insane amount of

work, what this creates. Well, work that I have to take on. And then I also think: 'With what right do these people create so much work for me?' Right? ... When one leases a garden and transfers their money and does everything and so on, ... but when *I* have to justify for *them* to third parties ... why these people live there. And in this case no money came in. Those are conflicts that worry me ... that exhaust me. There I think, as the president of a colony, why do they create so much work for me? ... Personally, I don't want to tolerate this. Just to avoid this issue of slumification. Because our society is so prosperous, right? There have to be other ways! ... It isn't the case that they are without employment or that they have to hide or are persecuted. ... No, that's just not acceptable! I cannot do it, but it's rather ... maybe, maybe rather actually a bit, a kind of task that people are integrated better, right? That they have a proper flat that they register, somehow. ... maybe they don't earn enough, or they are employed in precarious conditions. Yes, that can of course be the case (*interview, 09.07.14, my translation*).

His statement raises numerous issues that deserve closer attention. Mr Fischer is left with open questions and fundamental doubts. He notes that he is overstrained with the task and the work at hand, not least because these challenges exceed his responsibility as administrator and demand his personal judgement. Mr Fischer not only has to justify the conditions towards his neighbours, but also towards others — first and foremost the upper tier of the gardening association. The negotiability of the situation widens his responsibility because his decision is not ruled by 'system' (Seligman 1997: 173). Therefore negotiability can also become a means of exclusion, which is, in this case, not systemic but based on individual decision-making.

But as this situation grants Mr Fischer the agency to act, it also overstrains him with 'the burden of concern' (*ibid.*). He abdicates this responsibility. The justification of this move to notify the upper administration shows that his reaction is not about malevolent intent, but refers to the boundaries of socially acceptable norms. As we have previously learned, he is hardly informed about the circumstances in which the Romanians live or about their background situation. His considerations are not concerned with the prospects of alternative housing for these men. These are the unintended consequences of this process that are beyond the purview of the colony. These effects, in which he is knowingly implicated, disavow the housing conditions of Romanians by reference to prosperity and standards. What matters for him

in this case, are the local outcomes he brings about, namely the avoidance of slumification. To these ends, the rules of the books are brought to bear. Thus although I have previously argued that the rules of coexistence define the criteria along which boundaries of tolerance are drawn, once the unstated rules of the colony are broken, actors draw back on the stated rules of the law.

Let me briefly expand this discussion with the perspective of the bureaucracy. Similarly, from the viewpoint of the allotment garden administrators questions of regulation depend on the definition of acceptable standards and an account of this process allows me to examine the ways in which the bureaucracy determines where to draw the line. In one of my interviews, I discussed a case of dilapidated housing with Mrs Braun, an allotment garden administrator. She noted:

Well, what is a house? How does a flat have to look in order for it to be inhabitable? Sometimes we are called to allotment gardeners who live there [in the allotments]. Then I have a look and I say, that's not really a decent way to live any more. I mean, when some grandmother lives here, I can say, well we let her continue to live like that. ... But really, you say: 'actually, well, actually it's no longer acceptable, you neither have a shower, an outdoor toilet' — which was normal in the GDR, the height of the ceiling is below 2.20 ... This is some minimum standard that exists somewhere.

H.H.: And how would you react in these cases?

Mrs Braun: [*pauses*] well, then one would have to act on a case-by-case basis, but when people live in such circumstances, then those are hardship cases, because no one lives like that voluntarily. Then those are really people, who don't have money or do not get along with the administration, because they don't know how to file an application. In Germany, it is the case that no one needs to be homeless, so I would always involve the social welfare office (*interview, 19.08.13, my translation*).

According to Mrs Braun, these cases were mostly resolved around the turn of the millennium with the death of a generation of inhabitants that had already inhabited the gardens in GDR times. In the present case, state welfare concerns new cases while it avoids touching the remaining few that live below standard and enjoy wider tolerance through long custom or traditional practice. If a 'grandmother' can be allowed to exist as an allotment dweller, the move of a new resident into below standard housing requires the drawing of new lines of

tolerance. My reference to material technologies helped me to argue that materiality of the house becomes a tool to regulate its use. The present example highlights how the materiality is evaluated according to acceptable standards.

In both cases I discussed how these standards are defined in social practices. The enforcement of rules is dependent on the norms that govern these situations, rather than the boundaries of the law. This brings me back to discourses of informality. Roy defines informality through the perpetual redefinition of meaning. As she writes with AlSayyad, “[i]f formality operates through the fixing of value, including the mapping of spatial value, informality operates through the constant negotiability of value” (2005: 5). In the present case, not merely the values of informality are subject to negotiation, but those of formality as well.

Conclusion: Fixing the In-between

Coming full circle this chapter takes me back to the case of Mrs Müller and the vulnerability of her living situation. In the trial, she reported about, she sought the support of her neighbours. However, her gardening friends could not help her out, because their dwelling situation was similarly illegal. Mrs Müller told me,

Well, the problem is really, well, there is a law, ... but no one is treated equally. This is what happens when you live lawlessly, what we are doing. The people here are aware of that, right. Everyone has something. He has an extension; she has a greenhouse etc. And when they do something, then immediately... I mean, then they are afraid that the district association will say. ‘You have to dismantle this. You live here. You need to ...’ and all of that (*interview, 13.08.13, my translation*).

Mrs Müller’s account foregrounds the harm to which dwellers may become exposed and the unequal application of the law. Her contention speaks to my earlier statement about the security of the informal living situations within allotment gardens. Mrs Müller saw me off with a sentence that was difficult to forget. “When you live beyond the law”, she said, “you have

no protection” (*fieldnotes*, 13.08.13). In these cases the stakes are high, as the informal withdrawal into their huts deprives gardeners of their juridical rights. The perpetual construction of consent, as described in Chapter 5 grants gardeners relative security. But Mrs Müller’s contention points to the realm beyond the boundaries of this consent and the insecurity by which it is governed.

The mechanisms I outlined describe some of the ways in which these boundaries are set. In the examples provided, regulatory enactment is triggered only when problems come to light. It is mostly avoided: colonies reconcile conflicts or neighbourly disputes as local matters, they shield legal violations from an outside audience and they keep their peers in check. Clearly, such stability is not written in stone. But the underlying ‘trust relations’ between bureaucrats and allotment holders have often been built over years. In fact, the prioritising, stretching, or translating of legal orders or bureaucratic regulations have perpetually institutionalised a relatively stable realm of tolerance. Through these processes of repetition, order becomes established in the everyday and institutionalises the ambiguities in which dwelling is embedded. The extraordinary of informality becomes a knowable and located messiness — the ordinary messiness of everyday life. At times, as my previous examples show, transgressions deviate from the ordinary, and governing actors need to improvise and rethink their consent to the transgressions in the gardens. Then the boundaries of this order become subject to redefinition.

Despite the case-to-case character of these improvisations, this chapter has traced three sets of mechanisms that pattern such processes of ‘boundary-maintenance’ (Miszta 2002: 145). First, I have shown that boundaries are drawn with regard to the materiality and the aesthetics of the house and its surroundings. I have argued that allotment huts are used as a technology through which dwelling is restricted, but I have also indicated, that the quality and the look of the house provides a means to avoid a rigid enforcement of rules. Second, I have pointed to the rules of coexistence in the colonies to argue that the limits of tolerance depend on quietude, cooperation and a careful mediation of access. I described a consensual

agreement in which utterances such as ‘order and peace’, ‘not making trouble’, ‘not causing difficulties’, or ‘don’t exaggerate’, describe the conditions that allotment-holders need to meet when they undermine official regulations. Finally, by discussing two incidents in which people crossed the line that delimits acceptable standards I have explored the norms and rationalities that define the limits of tolerance.

In sum these mechanisms have outlined that the compromises that undergird consent work through a continuous effort on part of the gardeners and allotment administrators. Thereby moments of negotiability can be actively appraised and used as an ally in the quest to widen one’s room for manoeuvre. In this sense, local practices drive regulatory enforcement, or, rather, the enforcement of regulations hinges upon the ways in which people act. This conclusion has two significant implications.

The first concerns my understanding of formality. Rather than differentiating formality through some boundary set by the law, or one that circumscribes the state, my discussion points at the ways in which the boundaries of tolerance are established through social practices. It follows that what is inside or outside of a realm of consent not only relies on written statutes or fixed frames, but is determined by the ordinary compromises that negotiations bring about. To return to my earlier definition, if formality is the effect of a set of regulatory processes, these processes of negotiation around what is subject to regulation and what remains unmolested define formality.

Second, such balancing points to the agency of actors and their uneven capacities. As negotiability tends to depend at large on the gardeners’ abilities to negotiate which practices are vulnerable to charges of indictment, the room for engagement that opens up in the everyday negotiations of transgressions comes at the price of its uneven distribution. In the contestation and enforcement of conflicting formalities, all concerned with allotment governance move different infringements in and out of sight and realms of regulation. Beyond individual capacities, the possibility to breach the rules also hinges on the conditions in which

negotiations are set. As Roy notes, building on Berry (1993: 16) “in the context of unlimited negotiability, “security” depends on the terms on which men and woman participate in such negotiations”. This includes the norms and the rationalities of all governing actors, but also the power with which they are endowed through their positioning in constellations of governance. This brings me back to my earlier claim that the negotiation of formality is a relational process and is thus dependent on circumstance.

As this chapter has outlined some of the rules on which toleration depends, it has not only demonstrates the importance of negotiability as an arena in which politics play out, but also laid a foundation from which to discuss the ways in which negotiability works to condition urban order. In rapping up the themes I have so far discussed, the conclusion of this thesis widens the perspective and delves into some of the conditions that negotiability brings about.

8. CONCLUSION: THEORISING BACK

Mr Berger: Imagine a Gallic village. This is how ... I always describe the colony [...].

H.H.: Mhm ... And why a Gallic village?

Mr Berger: Well, I always describe it like this, because we are right in the middle here ... in the thick of it and ... here the rules of the game are different.

H.H.: Yes?

Mr Berger: Here the clock still ticks differently. And I take good care that this is the case (*interview, 10.07.2014, my translation*).

Following Mr Berger, an outspoken president of a huge allotment compound in the outskirts of the city, in the 'Gallic village'... 'the rules of the game are different'. They appear to be carefully composed, as the 'Gallic village' constitutes a site, where people work to protect their pace of urban change. Moreover, a geographical relation describes the 'Gallic village'. It is 'in the thick of it', right in the middle, bound to the city, even if its order differentiates the 'Gallic village' from other sites. Nevertheless, this chapter concludes that the 'Gallic village' is not an exceptional place, but a paradigmatic case that helps me to understand how formality is built in Berlin's allotment colonies.

Negotiating Formalities is an examination of the 'Gallic village' in the midst of a European capital. Key to this task has been an analysis of the ways in which institutional and civil actors negotiate order in the everyday. *Negotiating Formalities* has traced spaces of engagement in processes of regulation to understand the ways in which order is shaped in and through processes of regulation. It has highlighted improvisations, accommodations and other mo-

dalities of adaptation through which all concerned transform top-down rules by putting them into practice, and it has described how actors delineate spaces of negotiation and place limits on tolerance. In revisiting these themes and bringing these foci together, this chapter ventures into a set of tentative conclusions about my approach to and the implications of thinking about urban order through the lens of *Negotiating Formalities*, or, differently put, about the specificities of the ‘Gallic village’. To put it concretely, it has four aims. First, this chapter considers the contributions of *Negotiating Formalities* to an understanding of formality and traces these insights back to debates on informality. Second, I link my thinking about negotiability in processes of regulation to concerns about urban governance and states, the second theme to which this thesis speaks. Third, I consider how the approach I derived in relating the literatures on informality and states may help to cast a different light on urban governance in Berlin. Finally, in revisiting the epistemological approach of this thesis — the attempt to relocate concepts to new sites of theorisation — this chapter closes with reflections on this epistemological move and, more particularly, the promises and challenges that it bears for future research.

Approaching formalities in negotiations and how this approach reflects on informality

With its focus on unauthorised dwelling, this thesis has explored a subject matter that is at the core of informality research, but has shifted perspective. In Chapter 2, I argued that conceptions of informality require a conceptual engagement with the constitution of states. In approaching this task, I have introduced an understanding of states as produced in interactions that blur institutional boundaries (Mitchell 1991; Herbert 2000; Painter 2006). To explore these interactions in situations of ambiguity, I have framed my approach around the notion of *Negotiating Formalities*. In examining this framework in more depth, I have focused on three dimensions: constellations of governing, or the multiple cooperations through which order is built; frameworks of order, or the assemblage of stated and unstated rules that guide regulations; and the boundary-mechanisms that mark the margins of acceptable

conduct. These dimension are key to understanding the processes through which formality is built, namely through negotiation around who impacts upon the production of order, how rules are to be used and understood and what is to be tolerated and what is not. In this sense, formality is the contested product of enduring negotiations.

If formality cannot be taken for granted, neither can informality. It thus follows from this perspective that informality can hardly be read as the other of a clearly delineated and coherently functioning state. Drawing this conclusion is more than simply a restatement of the dangers of dichotomous thinking, because reading processes of governance through the lens of *Negotiating Formalities* has three significant implications for an understanding of informality.

First, the approach of this thesis starts from the efforts that accompany the production of order and points to spaces of engagement that lie within and beyond a circumscribed realm of the state. Accounting for a broader constellation of actors participating in these efforts not only increases the occasions in which to look out for informal practices, but also puts pre-defined roles, such as ‘the informal people’ (Bayat 1997) or the predatory state into question. Through the lens of *Negotiating Formalities* governing appears as a joint but contested effort — a dialogical process rather than a one sided narrative. Such an approach helps to circumvent the binaries between resistance and everyday life, formal and informal agency or corruption and insurgency.

Second, to read the production of formality through the ways in which frameworks of order intersect with everyday practices points to the malleability of these frames, their inherent abstractions and the work that is necessary to adjust them to a given situation. Chapter 6 has argued that these processes of interpreting, translating and adapting rules are necessary in responding to contextual differences, or to find more suitable solutions for making states function. Informality, from this point of view appears not as the result of the failures of states, but as inherent in any system of governance.

Third, an account of formality that considers the spaces of engagement I described above challenges an understanding of informality as a sphere beyond the state. Ananya Roy, among others, convincingly exposed that the “state is an informalized entity” (2009d: 84). Indeed, even in strong democracies state actors engage in practices that transgress their own regulations. On a larger scale, the checks and balances that are built into a system of governance circumscribe the extent to which such transgressions remain possible. My focus in this thesis has considered the boundaries between formality and informality on the lower level of everyday negotiations. On this scale, all concerned use their potentials to widen their room of discretion or delimit transgressions. Thus rather than separating informality and formality by relating these terms to different spheres, the more relevant question concerns the ways in which everyday negotiations continuously work to redefine what passes unmolested and what is designated as unacceptable.

From the viewpoint that this thesis suggests, the negotiation of stated rules appears as a necessary corollary to processes of state enactment, or, say, an inherent characteristic of the production of formality. Negotiability is therefore not, as some of the informality literature insists (Roy & AlSayyad 2005: 5), a feature that marks informality as distinct. In this sense, formality blends with informality and it would also be difficult to define a different criterion that can strictly hold the two terms apart. In the face of ambiguity in any division that could be drawn between the two terms, the question of why this thesis has built on formality is of minor importance. If my approach has shown that a number of urban processes do not require the term informality for their description or analysis, I am aware that this term remains key for much academic and policy debates. *Negotiating Formality* tells its story from the viewpoint of formality to take up the challenge to reflect on the notion in a way that advances an understanding of processes that do not only matter for an analysis of transgressions, but also for an account of the making of urban order. Therefore the subsequent section relates the insights that have been gained in this thesis back to questions of urban governance.

Negotiability in urban governance

Contemporary theorizations have often put the messy trajectories of urbanisation in comprehensive and orderly schemes of planetary urbanisation (Brenner & Schmid 2012, 2015), global capitalism (Brenner & Theodore 2002; Brenner 2013) or its local variegations (Brenner et al. 2010). Some are troubled by the predominant focus of these accounts on a supposedly preponderant role of the economy (Larner 2000; Barnett 2005; 2006; Clarke 2008; Newman 2012). Others have asked more general questions about the global salience of these theories and advocated for the design of analytical registers through which to think through urban processes in ways that incorporate the experiences of cities 'off the map' (Robinson 2006; McFarlane 2007; Roy & Ong 2011). This thesis has followed these calls, not only to place Berlin on the map of informality research, but also to problematise and widen some of the recurring narratives of urban governance in Berlin. In rethinking the claims this thesis has made about the production of urban order, I offer three entry points through which to consider Berlin from the viewpoint of the (allotment) colony. They focus on the agency that negotiability entails and the power relations in which it is embedded, the uneven geographies of urban governance as well as the temporalities of urban change. I use these entry points to reflect on some of the recent developments in the city's gardens and conclude with some reflections on the contributions these reflections offer to an understanding of Berlin. What, then, can we learn from an understanding of the 'Gallic village' about urban governance in Berlin?

First, an understanding of governance through the contestation and enactment of rules, contributes to an account of agency. Quite distinct from a focus on the instrumentalism of top-down rule or the infringements of agency through the power of global corporate actors, an approach to making order through negotiations in everyday practices highlights the ways in which people participate in shaping the city beyond the invited channels of formal participation. In thinking about regulation through a wider set of actors, Chapter 5 has pointed to spaces of agency that remain outside of an analysis of governance as simply the realm of bureaucratic institutions. Rather than studying these agencies as positioned against the state,

Negotiating Formalities explores the ways in which residents and bureaucrats manoeuvre the contested terrain of enacting regulations by encroaching, interpreting or accommodating rules — frequently in cooperation. For example, Chapter 5 has indicated how bureaucracies and gardeners join hands to rule through pragmatism and compromise. Chapter 6 has illustrated the inherent normative systems that undergird statutory frames (cf. Blomley 2014: 138). But this chapter has also pointed to the ways in which actors adapt the law through applying it to a particular site, for example when they register under a fake address to comply — at least officially — with a necessary legal requirement or when they build on obsolete regulations to create legitimacy for alternative ways of enacting rules. Thus rather than being determined by ‘ruling relations’ (Smith 1990) individuals gain leverage as they adapt the rules of the books so that their enactment itself appears as a place of agency. The processes that these chapters describe speak directly to the first sub-question of this thesis, which asks how allotment holders as well as responsible institutional actors use spaces of engagement to enact and transgress regulations. Chapter 7 has highlighted that the wiggle room for some is limited through a rigid enforcement of stated rules, when actors cross a line that is difficult to localize and only becomes fixed once it has been passed. But this chapter has also pointed to the ways in which actors strategically widen the boundaries of toleration. These mechanisms address the second sub-question of this thesis, which asks how allotment holders as well as the responsible institutional actors delineate spaces of negotiation and define the limits of transgressions.

These spaces of agency are an important arena through which urban development is implemented, transformed and contested. They disrupt, in Clarke’s words, the “very functional account of the machinery of government as an apparatus that processes ideas, intentions, interests or ideologies and delivers the desired results” (2012: 209). They provide a crucial domain for critique and a pivotal opportunity to explore, as Newman points out, “how and where politics is or could be enacted” (2012: 10). Following from this account of agency, negotiability could be framed as an enabling tool or as a resource that may be put to work to cushion or reconfigure the pervasive influences of market-driven regeneration processes.

But such politics is not necessarily redistributive. Consider that the incremental construction activity of some of the gardeners prevents poorer households to gain access to allotments, as destitute candidates are unable to afford redemption fees of up to 15,000 Euro (£11,000). In these cases, allotment holders have transformed the colonies from state subsidized welfare institutions into leisure spaces for the (lower) middle classes. From this perspective, it is not the influence of global corporate actors that reduces the access of the very poor to an allotment plot, but the small-scale agency of the gardeners — a factor that is easily missed when solely focussing on the influence of powerful economic actors or political institutions. Small acts may evoke larger developments when, as Povinelli notes, “little things pile up” (2011: 183).

Therefore the effects of negotiability require critical assessment. The manoeuvres I have outlined add necessary amendments to make regulation work in a smoother way, but they can also advantage individuals. Room for negotiation not only depends crucially on the gardeners’ capacities as well as their positioning in constellations of governance, it also hinges on the conditions in which negotiations are set, such as the economic pressure on land or the norms and the rationalities of governing actors. Where state power is, as Roy writes “reproduced through the capacity to construct and reconstruct categories of legitimacy and illegitimacy” (2005: 149), it is — at least in theory — checked and balanced through liable institutions. Everyday negotiations introduce less transparent modalities of claim making in which those who know how to play the rules of coexistence win. The absence of checks in negotiations not only excludes or disadvantages some, it also makes it possible for regulatory agencies to neglect their responsibilities as governing bodies, as my discussion of the different uses of discretionary space has indicated in Chapter 5.

Second, the ‘Gallic village’ is characterised through its location in the city. This is to say that a focus on negotiability in processes of governing points to uneven geographies of regulation. Through the lens of *Negotiating Formalities* these geographies can be described through a core-periphery relation — although this distinction is not always clear-cut. In the centre, a

higher degree of attention limits the toleration of transgressions. In inner city compounds, negotiations are subject to public debate, a closer scrutiny of bureaucracies or heightened media interest. Moreover, a pressure to rededicate the land and use it in ways which yield more profits becomes apparent. For instance, Chapter 5 discussed the ways in which the interest of global investment firms reflects on allotment governance. It has argued that the fearful awareness of evictions in connection with the rededication of colonies into building land itself works as a tool of governance that limits the possibilities for unmolested transgressions. These processes play out with more force in the centre of the city.

The other end of the spectrum of attention is characterised by neglect. It leads me to describe the colonies that are placed at this end as the inner peripheries of the city. This is not merely to point at the locations of these allotments at the fringes of Berlin, but the periphery also depicts, to put it with Simone, a space “that is never really brought fully under the auspices of the logic and development trajectories that characterise a centre” (2010: 40). Away from the focus of attention, the city’s peripheral allotments hardly raise political interest. It appears as if for decades, these sites have managed to circumvent reform. In Chapter 6, I introduced the work of Santos (1987) to establish an understanding of the ways in which the projections inherent in any law establish an uneven geography of legal centres and peripheries. Briefly, Santos work shows that where rules do not easily apply to a situation, they require further interpretation and adaptation in the processes of regulation and establish a legal periphery that is dependent on negotiability. A walk through the allotment colonies from the centre to the periphery of the city allows mapping this relation onto the geography of Berlin, as the housing stock is notably growing the further one moves away from the urban core.

This thesis has described spaces at the periphery of the city in which middle-class Berliners have built comfortable homes and lives. But the peripherality of the colonies tends to go hand in hand with a greater precarity in living conditions. Chapter 7 has pointed to the ways in which boundaries are drawn around questions of social standards. In the absence of this process, a higher degree of toleration at the city’s periphery allows for a situation in which

dwelling is marked by vulnerability. Somewhat outside of the consideration of responsible agencies, the inner peripheries are spaces of refuge. But at the same time huts burn down when illegal ovens spark off fires, ambulances cannot pass through the small alleys of the compounds and the material quality of the hut and its location in the city tend to invite burglary. In the face of negotiability, greater insecurity prevails. As these issues remain hidden from the public view, they hardly become concerns of urban relevance or political engagement.

Finally, as a logic of government, the ‘Gallic village’, or an account of negotiability in processes of regulation, is endowed with a certain timescape of urban transformation. Rather than an unfettered change in all spheres of life, this thesis has shown that the workings of laws, routine habits and markets — as much as they are intertwined — have different temporal logics. Particularly Chapter 4 has pointed to the ad-hoc recasts of legal reform, the persistence of real estate markets, the obduracy of the housing stock and the protracted workings of the bureaucracy. To understand how these temporalities interact to alter the landscape of the city requires a perspective which recognises the ways in which the different rhythms of longer-term plans, routine habits and short-term action structure urban development (cf. Crang 2001: 193).

The ‘Gallic village’ in Berlin is hardly a frontier of innovation. It largely resists external influences and relies on continuity, inertia or obduracy. But a description of allotment dwelling through the notion of ‘permanent temporariness’ that Oren Yiftachel employs to characterise the temporality of informal spaces through their “perpetual (...) waiting ‘to be corrected’” (2009a: 89) also misses the point. Rather, negotiations depend on the frictions or incongruities of the various temporalities that I have outlined. Today, allotment gardens have become spaces of leisure. Unlike earlier periods, in which policy privileged the access of the unemployed, the 1983 law — the BKleinG — no longer constitutes a redistributive policy, as it entails no specification as to who is entitled to profit from the minimal lease. In this way, allotments have become spaces of privilege for the (lower) middle classes. But a reform of

the BKleinG — the only federal regulation where gardens are legally defined — remains out of sight. Not only are allotments locked into the consciousness of the city as sanctuaries for the working classes or as valuable cultural institutions, the pressure of the housing economy additionally constitutes a reason not to reform the law. All governing actors are aware that in the face of the strained housing markets of most German cities, any reconsideration of old and ill-fitted ideas that the law entails would endanger the status quo. Consequently, past rationalities continue to rule and require their adaptation in everyday negotiations.

Translating informality to Berlin

If these three points provide a helpful perspective on an analysis of governance in and beyond Berlin, they face up to the challenge of the epistemological approach that this thesis has embraced: to translate a theory from the South into a Northern context and through this move, derive new insights on an old-standing theme. In arguing that negotiability is a necessary dimension of institutional processes — whether located the North or the South — I have aimed to position the practices I have studied in Berlin within an analytical frame that is predominantly built in the South.

This section offers some conclusions on the contributions that this move offers to research on Berlin. As Bernt et al. argue (2013: 12) *Berlin research has shifted since the fall of the wall* from an engagement with topics associated with the processes that accompanied the city's new role as the German capital, such as the city's gentrification (Holm 2007; Bernt 2012) or its large scale redevelopment (Cochrane and Passmore 2001), to more cultural themes focused on creative industries (Lange 2011), co-working (Schmidt 2015), community resistance (Färber 2014) and migrant economies (Bergmann and Lange 2011; Ha, 2014; Hentschel 2015). If the last section has shown that a Southern lens widens alternative theoretical framings through which to view Berlin, this section also argues that such a lens extends the themes that may be of interest when researching Berlin.

First, this thesis has offered an understanding of formality that points to the room for manoeuvre that the production of order entails. In aiming to understand the agency that governs this room for manoeuvre, this thesis has painted a picture of Berlin as a place of negotiability that largely deviates from commonplace understandings of the city as a centre of Prussian order and rigid bureaucracy. This perspective points to the ways in which people navigate the interstices between the planned and the unplanned city and opens up multiply ways of seeing the city's pathways as open to the micro-agencies through which these pathways may shift.

Further research along these lines could point to the wriggle room through which civil and institutional actors interpret the rules according to their needs and frequently in negotiation. In researching institutional practices, such a focus could help to investigate the leeways in multiple realms of policy making including housing politics, the distribution of newly arrived refugees, the allocation of infrastructure and the like. In researching the practices of civil society actors this perspective entails an understanding of spaces of manoeuvre as spaces of agency and resistance. Seeing Berlin through this lens begins, as Hentschel puts it "with an unagitated approach to the actual processes in which 'the work of the city is done'" (2015: 89) and accounting for the potential of this work to evoking urban change. Such a view on everyday negotiations could extend research on resistance in Berlin with an account of the spaces for political engagement that these micro-processes entail.

Second, my thesis has offered a lens that pertains to the uneven production of formality in Berlin. It has advocated a perspective that foregrounds geographical asymmetries in relation to the negotiability of rules. Thereby it has aimed to counter the tendency of much research on Berlin, to focus either on the centre of the city, when researching, for instance, processes of touristification, gentrification or material regeneration, or on the periphery when aiming to understanding processes such as suburbanization, while other sites, such as the Eastern periphery, remain *terra incognita* in much urban research. This thesis has developed an approach that holds these geographies in tension and offers an analysis that is able to account

for the uneven construction of formality. Thereby, a more relational view of the geographies of the city provides an important perspective on the hidden motors of socio-spatial inequality that may help to understand, for instance, the differentiated geographies of investment, migratory movements within the city, but also the uneven application of laws and regulation.

Finally, this thesis has offered a view that accounts for the obduracy of urban change and the multiple temporalities that play out in the production of order in Berlin. As Merrill and Jaspers have argued, an understanding of Berlin is frequently derived from specific moment in history, including the period of accelerated change that followed the fall of the wall as well as the years of WWII (2014: 152). Accordingly, we learn less about developments preceding reunification and how these impact upon contemporary urban development. Particularly Chapter 4 has attempted to account for the traces that those eras leave that are silenced in this approach and reflected on the ways in which they play out in contemporary urban development. Thereby it has aimed to contribute a perspective that accounts for the ways in which past processes impact upon the production of the city today. Through a long-term perspective on the cities socio-spatial development it has attempted to draw attention to the shifting temporalities of making formalities where the simultaneous existence of 'other' temporalities can challenge descriptions of rapid urban change. Seeing Berlin through this lens could offer a perspective that accounts for the ways in which some of the rationalities that governed urban life, for instance in the GDR, continue to impact upon urban politics today.

Together these ways of thinking do not require a replacement of research foci, but do highlight the value of widening approaches and themes in order to account for some of the more hidden developments in the city with the help of the 'Southern turn' (McFarlane 2007: 340).

Translating informality: promises and challenges for future research

How helpful is it to discuss the 'Gallic village' as a case of Southern urbanism? This ques-

tion, or the idea that the processes in cities elsewhere should inform an understanding of European or American cities is not free of contradictions. Let me then, to conclude, briefly reflect on some of the challenges and possibilities that I encountered throughout my own process of translation.

To translate implies the transfer of meaning. It requires the holding of at least two places in tension and is, in this sense, a relational term. To ‘theorise back’, or, to ‘post-colonise Berlin’ (Hentschel 2015) means to render spaces commensurable. But, despite this concern, translating speaks of otherness. ‘Theorising back’ builds on the assumption that places are different — and to decipher them within the same analytical frame makes it necessary to insert an interim move, namely to translate. Authors have explicitly addressed this problem. Ananya Roy, for instance, urged scholars not to essentialise the global South and its diversity as a new privileged worldview (2015b). But frequently the archetypes of the global South (e.g. informality) are read as the soon-to-be prototypes of the global North (Comaroff & Comaroff 2012). In this line of thinking Sheppard et al. note that “current urban experiences in Asia and Africa ... foreshadow North American and European urban life” (2013: 898). In these accounts, the directionality of development trajectories that have previously been deducted from the global North to analyse the South is reversed, insisting stubbornly on one singular development scheme. This framing goes hand in hand with a tendency to translate predominantly those ideas from the South that concern poverty, gangs or corruption and use them to understand the growth of inequality in the global North. A ‘Southern take’ translates, in this sense, into a focus on the ‘badlands of the republic’ (Dikec 2007), or on the subaltern agency of the poor. If urban scholars would follow Robinson’s (2006) call to diversify their analytical lenses and study multiple trajectories of cities both in the North and the South, it would be possible to share experiences across these realms and render it unnecessary to follow yet another trope (cf. Henschel 2015b: 6).

A loose interpretation of the German verb ‘translate’ [übersetzen] conveys another meaning, which translates into English as ‘to head for new shores’. ‘Theorising back’ proceeds from

the idea that a post-colonial perspective makes it possible to develop approaches that differ from those deeply embedded in the experience of European or American cities. Additionally it assumes that the experiences of cities that have been less visible make it possible to imagine alternative narrations and new analytical paradigms. Thereby translations are necessary steps to enter into conversations across places. McFarlane (2010: 734) aligns the notion with the concept of indirect learning, as translation, as he writes, “embodies a sense of creative possibility that does not reduce learning to direct transfer”. As translations require developing new terminologies, re-naming constellations of actors and ordering categories anew, they allow for a process through which new ideas arise. In this sense they are likely to allow the translator to head for new shores.

Where, then, do these new shores lie and how does their understanding contribute to research in other urban contexts? This thesis started from an attempt to think informality beyond the context in which it was originally framed, but rather than seeing the global North as a counterpoint to the South, the aim was to theorize the concept in ways that would allow me to inform and refine the concept in ways that spoke to multiple cities in diverse states. If these attempts have contributed first steps to ‘globalizing’ formality and informality, much remains to be done to gain a more comparatively informed understanding of the ways in which order is produced and contested in everyday negotiations.

First, extending an engagement with a notion of formality that accounts for the practises of its production to other contexts might help to overcome imaginaries that stress the distinctiveness of states in the global North and South. For this thesis’ project of ‘worlding’ informality, I framed my engagement with the production of order as an ethnographic question about the negotiability of regulatory processes. This approach has provided evidence of the room for manoeuvre through which formality gets produced by civil and institutional actors.

These mechanisms are not particular to my case in Berlin. In concentrating on the state as a field of power shaped by the “actual practices of its multiple parts” (Migdal 2001: 16), this focus helps to account for the negotiability of any state as part of its normal func-

tioning. Rather than juxtaposing the presumed coherence of the Northern state and the conflicts, fissures and failures of the Southern state, further engagement with such a fluid or practise-centred understanding of formality in cities across presumed North-South divides would help to distort imaginaries of the Northern developed metropolis as a consistent organization and the Southern megacity as failed, corrupt or behind.

Second, this conceptual frame raises further issues about the ordinary work of producing the city. In looking at the transformative potential of the everyday, this thesis has extended the body of work concerned with mundane processes of governance (Corbridge et al. 2005, Painter 2006, Mountz 2013). It provides evidence for the ways in which people make the city in using or inhabiting it, accounting for the spatial and social practises that shape or remake urban order.

More could be done to inquire into the everyday production of the city and one could think of similar research in other urban sites, in which the microcosms of everyday interaction shape the ways in which governance gets done. A perspective that expands the imaginaries of governance processes to the multiple agencies that work in the production of order might expand academic registers of top-down and bottom-up processes and allow for an understanding of the multiple modalities through which governance is constituted in negotiation.

Third, as Jan Nijman notes, “[c]omparative urbanism is a necessary strategy in a rapidly globalizing field of urban studies, but it can deliver only if pursued in a constant interchange of theory and empirical enquiry” (2015: 185). If this thesis has intended to follow an approach that aims for a global spread of cases to contribute to theory in their own right, it has attempted to open up the terrain for comparative and empirical projects that works across North South divides. Nevertheless it has remained rooted in Berlin. Comparisons of similar practices of negotiating space across cities in different institutional and geographical settings might help to shed more light on the conditions that may facilitate, foster or restrain the negotiation of urban order in other sites.

LIST OF INTERVIEWS

- | | | | |
|-----|--------------------------|-----|---------------------------|
| 1. | 12.07.2013, Mr Lutz | 21. | 11.06.2014, Mr Schulz |
| 2. | 07.08.2013, Mr Werner | 22. | 04.06.2014, Mr Schneider |
| 3. | 13.08.2013, Mrs Müller | 23. | 09.06.2014, Mrs Braun |
| 4. | 15.08.2013, Mr Maier | 24. | 18.06.2014, Mr Mayer |
| 5. | 16.08.2013, Mr Binder | 25. | 19.06.2014, Mr Weber |
| 6. | 19.08.2013, Mrs Braun | 26. | 23.06.2014, Mr Schmidt |
| 7. | 16.09.2013, Mr Koch | 27. | 27.06.2014, Mr Kaiser |
| 8. | 16.09.2013, Mrs Wolf | 28. | 06.07.2014, Mr Ludwig |
| 9. | 17.09.2013, Mr Neumann | 29. | 09.07.2014, Mr Fischer |
| 10. | 18.09.2013, Mrs Hartman | 30. | 16.07.2014, Mrs Krause |
| 11. | 20.09.2013, Mr Bauer | 31. | 10.07.2014, Mr Berger |
| 12. | 14.10.2013, Ulrich | 32. | 10.07.2014, Mr Schwarz |
| 13. | 19.11.2013, Mr Schäfer | 33. | 12.07.2014, Mr Zimmermann |
| 14. | 09.04.2014, Mrs Richter | 34. | 12.07.2014, Julius |
| 15. | 23.04.2014, Mr Becker | | |
| 16. | 25.04.2014, Herr Schramm | | |
| 17. | 09.05.2014, Mr Schulz | | |
| 18. | 12.05.2014, Mr König | | |
| 19. | 12.05.2014, Mrs Hoffmann | | |
| 20. | 13.05.2014, Ron | | |

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